

Maine Revised Statutes

Title 4: JUDICIARY

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Title 4: JUDICIARY

Chapter 1: SUPREME JUDICIAL COURT

Subchapter 1: CONSTITUTION AND GENERAL JURISDICTION

§1. CONSTITUTION OF THE COURT; ADMINISTRATIVE RESPONSIBILITIES OF THE COURT AND THE CHIEF JUSTICE

The Supreme Judicial Court, as heretofore established, consists of a Chief Justice and 6 associate justices and such Active Retired Justices as may be appointed and serving on said court, learned in the law and of sobriety of manners. [2009, c. 213, Pt. QQ, §1 (AMD).]

The Chief Justice is the head of the judicial branch of the State. In the event of the Chief Justice's disability for any cause, the senior associate, not under disability, shall perform any and all of the duties of the Chief Justice. [2009, c. 213, Pt. QQ, §1 (AMD).]

The Supreme Judicial Court has general administrative and supervisory authority over the judicial branch and shall make and promulgate rules, regulations and orders governing the administration of the judicial branch. [2009, c. 213, Pt. QQ, §1 (AMD).]

The Chief Justice, as head of the judicial branch, shall prepare the budget for the judicial branch. The Chief Justice may approve financial orders for transfers and revisions of and increases to allotment within the judicial branch in accordance with procedures for financial orders established in the executive branch. The Chief Justice shall provide a copy of each approved financial order to the Department of Administrative and Financial Services, Bureau of the Budget and the Office of Fiscal and Program Review. [2011, c. 655, Pt. W, §1 (AMD).]

The Chief Justice, as the head of the judicial branch, shall, in accordance with the rules, regulations and orders of the Supreme Judicial Court, be responsible for the efficient operation of the judicial branch and for the expeditious dispatch of litigation therein and for the proper conduct of business in all courts. The Chief Justice may require reports from all courts in the State and may issue orders and regulations necessary for the efficient operation of the judicial branch and the prompt and proper administration of justice. [2009, c. 213, Pt. QQ, §1 (AMD).]

SECTION HISTORY

1975, c. 408, §1 (RPR). 1975, c. 623, §§3-A (AMD). 2009, c. 213, Pt. QQ, §1 (AMD). 2011, c. 655, Pt. W, §1 (AMD).

§2. APPOINTMENT OF ADDITIONAL JUSTICES

Whenever the Chief Justice of the Supreme Judicial Court or, in the event of his disability, any associate justice thereof has reason to believe that any Justice of the Supreme Judicial or Superior Court is totally and permanently disabled by reason of physical or mental incapacity and because thereof is unable to perform the duties of his office, he shall cause a commission of 3 competent disinterested members of the medical profession to make due inquiry and examination into the facts and report thereon to the Supreme Judicial Court. Upon receiving said report, he shall thereupon call a meeting of said court and submit to them the report of said medical commission. The court shall thereupon, upon said report and such other evidence as they may deem necessary, if any, determine the facts in relation thereto. If said court find that said Justice of the Supreme Judicial or Superior Court is permanently and totally disabled by reason of physical or mental incapacity and because thereof is unable to perform the duties of his office, the Chief Justice shall certify said fact to the Governor. Upon receipt of such certificate from the court, the Governor shall make due inquiry into the matter and, if he confirms the finding of said court, the Governor shall appoint an additional Justice of the Supreme Judicial or Superior Court, as the case may be. [1979, c. 127, §6 (AMD).]

SECTION HISTORY

1975, c. 771, §16 (AMD). 1979, c. 127, §6 (AMD).

§2-A. JUSTICE OF THE SUPREME JUDICIAL COURT TO SIT IN DISTRICT COURT

The Chief Justice of the Supreme Judicial Court may assign a Justice or Active Retired Justice of the Supreme Judicial Court to sit in the Superior Court or the District Court, and when so directed the justice has authority and jurisdiction in the Superior Court or the District Court as if the justice were a regular justice or judge of that court. When assigned under this section, the justice may hear all matters and issue all orders, notices, decrees and judgments that any Justice of the Superior Court or Judge of the District Court is authorized to hear and issue. [2001, c. 69, §1 (AMD).]

The order of the Chief Justice of the Supreme Judicial Court directing a Justice or an Active Retired Justice of the Supreme Judicial Court to sit in the Superior Court or the District Court must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that justice. [2001, c. 69, §1 (AMD).]

SECTION HISTORY

1997, c. 683, §E1 (NEW). 1999, c. 547, §B1 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 69, §1 (AMD).

§3. WHEN VACANCIES SHALL NOT BE FILLED

No vacancy in the Supreme Judicial or Superior Court caused by the death or expiration of the term of said incapacitated justice shall be filled, if thereby the number of justices qualified and capable of acting would be in excess of that otherwise provided by law as constituting said court.

§4. SALARY OF JUSTICES; EXPENSES

1. Chief justice; salary. The Chief Justice of the Supreme Judicial Court is entitled to receive a salary, for fiscal year 1998-99 and thereafter, of \$111,000, to be paid biweekly.

[1997, c. 643, Pt. M, §1 (AMD) .]

2. Associate justice; salary. Each Associate Justice of the Supreme Judicial Court shall receive a salary as follows:

A. For fiscal year 1998-99 and thereafter, \$96,000, to be paid biweekly. [1997, c. 643, Pt. M, §2 (RPR) .]

B. [1989, c. 596, Pt. C, §§1, 8 (RP) .]

C. [1989, c. 501, Pt. O, §§9, 22 (RP) .]

D. [1989, c. 501, Pt. O, §§9, 22 (RP) .]

E. [1989, c. 501, Pt. O, §§9, 22 (RP) .]

[1997, c. 643, Pt. M, §2 (AMD) .]

2-A. Cost-of-living adjustment. Effective July 1, 1999 and every July 1st thereafter, the State Court Administrator shall adjust the salaries of the State's chief justices, chief judge, deputy chief judge, associate justices and associate judges by any percentage change in the Consumer Price Index from January 1st to December 31st of the previous year, but only to a maximum increase of 3%. The State Court Administrator shall determine the cost of these adjustments; notify the State Budget Officer and the Director of the Office of Fiscal and Program Review of these costs; and include them in the Judicial Department's budget requests, as necessary. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers: United States City Average, All items, 1967=100, as compiled by

the United States Department of Labor, Bureau of Labor Statistics or, if the index is revised or superseded, the Consumer Price Index is the index represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar by consumers.

[2013, c. 563, §1 (AMD) .]

3. Expenses. Expenses shall be governed as follows.

A. Each justice must be reimbursed by the State, upon presentation to the State Controller of a detailed statement, for those expenses, as established by judicial branch policy, actually and reasonably incurred in attending meetings and the sessions of the court and the Law Court. Reimbursement for mileage must be paid at the rate paid state employees under Title 5, section 8. [2007, c. 539, Pt. JJ, §1 (AMD) .]

B. Each justice of the court shall be reimbursed by the State, upon presentation to the State Controller of a detailed statement, for clerical assistance, postage, stationery, express and telephone tolls and any other reasonably necessary expenses actually and reasonably incurred by him. [1983, c. 853, Pt. C, §§4, 18 (NEW) .]

C. The Chief Justice of the Supreme Judicial Court or his designee may prescribe regulations for the submission of the required statements through his office, and for the advance approval by him of other reasonably necessary expenses. [1983, c. 853, Pt. C, §§4, 18 (NEW) .]

[2007, c. 539, Pt. JJ, §1 (AMD) .]

4. Exception. The salary provisions of this section shall not apply to justices who have retired prior to December 1, 1984.

[1983, c. 853, Pt. C, §§4, 18 (NEW) .]

SECTION HISTORY

1965, c. 412, §5 (AMD). 1967, c. 476, §3 (AMD). 1969, c. 580, §1 (AMD). P&SL 1971, c. 179, §M1 (AMD). P&SL 1973, c. 209, §5 (AMD). 1973, c. 509, §4 (AMD). 1975, c. 383, §1 (AMD). 1975, c. 408, §§2,3 (AMD). 1975, c. 735, §1 (AMD). 1977, c. 696, §19 (AMD). 1979, c. 127, §§7,8 (AMD). 1979, c. 544, §5 (AMD). 1979, c. 663, §5 (AMD). 1981, c. 486, §1 (AMD). 1983, c. 477, Pt. E, Subpt. 1, §1 (AMD). 1983, c. 853, §§C4,18 (RPR). 1983, c. 863, §§B5,B45 (AMD). 1989, c. 501, §§O9,10,22 (AMD). 1989, c. 596, §§C1,8 (AMD). 1989, c. 596, §C1 (AMD). 1989, c. 878, §§D14,15 (AMD). 1991, c. 780, §X1 (AMD). 1991, c. 824, §§B13,14 (AFF). 1993, c. 410, §X1 (AMD). 1997, c. 643, §§M1-3 (AMD). 2007, c. 539, Pt. JJ, §1 (AMD). 2013, c. 563, §1 (AMD).

§5. COMPENSATION OF JUSTICES UPON RETIREMENT
(REPEALED)

SECTION HISTORY

1965, c. 442, §1 (AMD). 1967, c. 494, §§1,29 (AMD). 1969, c. 466, §1 (AMD). 1969, c. 469, §§1,2 (AMD). 1971, c. 64, §1 (AMD). 1975, c. 701, §§1,2 (AMD). 1981, c. 488, §§1,2 (AMD). 1983, c. 167, §1 (AMD). 1983, c. 853, §§C5,18 (RP).

§6. ACTIVE RETIRED JUSTICES

Any Justice of the Supreme Judicial Court, who has retired from the court under this chapter in effect prior to December 1, 1984, or any Justice of the Supreme Judicial Court who retires or terminates his service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Justice of the Supreme Judicial Court as provided. The Governor may, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, appoint any eligible justice as an Active Retired Justice of the Supreme Judicial Court for a term of 7 years, unless sooner removed, and that justice may be reappointed for a like term. Any justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in the cases and matters and hold court only at the terms and times as he may be directed and assigned to by the Chief Justice of the Supreme Judicial Court. The Chief Justice is empowered and authorized to assign and designate any such Active Retired Justice of the Supreme Judicial Court as to his services and may direct as to which term of the Law Court he shall attend, and order him to hear all matters and issue all orders, notices, decrees and judgments in vacation that any Justice of the Supreme Judicial Court is authorized to hear or issue. [1983, c. 853, Pt. C, §§ 6, 18 (AMD).]

SECTION HISTORY

1967, c. 544, §1 (AMD). 1969, c. 466, §2 (AMD). 1975, c. 771, §17 (AMD). 1983, c. 853, §§C6,18 (AMD).

§6-A. ACTIVE RETIRED JUSTICE OF SUPREME JUDICIAL COURT TO SIT IN SUPERIOR COURT

An Active Retired Justice of the Supreme Judicial Court may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the Superior Court in any county, and when so directed he shall have authority and jurisdiction therein as if he were a regular Justice of the Superior Court; and, whenever the Chief Justice of the Supreme Judicial Court so directs, he may hear all matters and issue all orders, notices, decrees and judgments that any Justice of the Superior Court is authorized to hear and issue. [1979, c. 12, §1 (NEW).]

The order of the Chief Justice of the Supreme Judicial Court directing an Active Retired Justice of the Supreme Judicial Court to sit in the Superior Court shall be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by him. [1979, c. 12, §1 (NEW).]

SECTION HISTORY

1979, c. 12, §1 (NEW).

§6-B. PER DIEM COMPENSATION FOR ACTIVE RETIRED JUSTICES OF THE SUPREME JUDICIAL COURT

Any Active Retired Justice of the Supreme Judicial Court, who performs judicial service at the direction and assignment of the Chief Justice of the Supreme Judicial Court, must be compensated for those services at the rate of \$300 per day or \$175 per 1/2 day, provided that the total per diem compensation and retirement pension received by an Active Retired Justice of the Supreme Judicial Court in any calendar year does not exceed the annual salary of a Justice of the Supreme Judicial Court. [2003, c. 290, §1 (AMD).]

SECTION HISTORY

1979, c. 692, §1 (NEW). 1983, c. 416, §1 (AMD). 1989, c. 501, §§O11,22 (AMD). 1989, c. 596, §C8 (AMD). 1991, c. 824, §§B13,14 (AFF). 2003, c. 290, §1 (AMD).

§7. GENERAL JURISDICTION; CONTROL OF RECORDS

The Supreme Judicial Court may exercise its jurisdiction according to the common law not inconsistent with the Constitution or any statute, and may punish contempts against its authority by fine and imprisonment, or either, and administer oaths. It has general superintendence of all inferior courts for the prevention and correction of errors and abuses where the law does not expressly provide a remedy and has control of all records and documents in the custody of its clerks. Whenever justice or the public good requires, it may order the expunging from the records and papers on file in any case which has gone to judgment of any name or other part thereof unnecessary to the purpose and effect of said judgment. It may issue all writs and processes, not within the exclusive jurisdiction of the Superior Court, necessary for the furtherance of justice or the execution of the laws in the name of the State under the seal of said court, attested by any justice not a party or interested in the suit and signed by the clerk.

§8. POWER TO PRESCRIBE GENERAL RULES

The Supreme Judicial Court has the power to prescribe, by general rules, for the Probate, District and Superior Courts of Maine, the forms of process, writs, pleadings and motions and the practice and procedure in civil actions at law. Said rules may neither abridge, enlarge nor modify the substantive rights of any litigant. They take effect on such date not less than 6 months after their promulgation as the Supreme Judicial Court may fix. After their promulgation the Supreme Judicial Court may repeal, amend, modify or add to them from time to time with or without a waiting period. After the effective date of said rules as promulgated or amended, all laws in conflict therewith are of no further force or effect. [1999, c. 547, §2 (AMD); 1999, c. 547, §80 (AFF).]

The Supreme Judicial Court may at any time write the general rules prescribed by it for cases in equity and those in actions at law so as to secure one form of civil action and procedure for both. In such union of rules the right of trial by jury as at common law and declared by the Constitution of the United States and amendments thereto and by the Constitution of the State of Maine and amendments thereto shall be preserved to the parties inviolate. Such united rules shall not take effect until 6 months after their promulgation and thereafter all laws and rules in conflict therewith shall be of no further force or effect. [1977, c. 694, §1 (AMD).]

SECTION HISTORY

1977, c. 694, §1 (AMD). 1983, c. 653, (AMD). 1999, c. 547, §B2 (AMD). 1999, c. 547, §B80 (AFF).

§8-A. RULES ON COURTS RECORDS AND UNCLAIMED PROPERTY

The Supreme Judicial Court may prescribe, repeal, add to, amend or modify rules or orders: [1981, c. 241, (NEW).]

1. Records. To establish retention and disposition schedules for the fiscal, managerial and court records of all the judicial courts of the State, and to authorize the disposition of such records as have no archival, historical or judicial value to the State to warrant permanent preservation, and to authorize the transfer to the Maine State Archives of such records, upon any reasonable terms and conditions as the State Archivist and the Supreme Judicial Court may agree, to be kept in accordance with the Archives and Records Management Law; and

[1981, c. 241, (NEW) .]

2. Unclaimed property. To provide, after reasonable notice to interested parties or their attorneys, for the transfer to the Treasurer of State for disposition as unclaimed property in the manner provided by Title 33, sections 1958 and 1959 of property in the possession or custody of the courts of this State as a result of civil or criminal litigation.

[2003, c. 20, Pt. T, §2 (AMD) .]

SECTION HISTORY

1981, c. 241, (NEW). 2003, c. 20, §§T1,2 (AMD).

§8-B. RULES GOVERNING NONDISCLOSURE OF CERTAIN IDENTIFYING INFORMATION

1. Nondisclosure of certain identifying information. The Supreme Judicial Court may prescribe, repeal, add to, amend or modify rules or orders providing for a procedure in all courts through which a party is given the right to request that certain identifying information not be disclosed.

[2007, c. 351, §1 (NEW) .]

2. No contact order; allegation or pleading. Rules and orders developed pursuant to subsection 1 may allow:

A. A party or participant to notify the court in any case of the existence of any court orders in effect at the time of the proceeding that prohibit contact between the parties and participants; and [2007, c. 351, §1 (NEW) .]

B. A party or participant to allege in an affidavit or a pleading under oath that the health, safety or liberty of the person would be jeopardized by disclosure of information pertaining to the person's current or intended address or location. [2007, c. 351, §1 (NEW) .]

[2007, c. 351, §1 (NEW) .]

3. Evidence; records. Rules and orders under this section may address the sealing, disclosure and redaction of evidence and records, including circumstances in which the information to be treated as confidential is a material fact necessary to the proceeding.

[2007, c. 351, §1 (NEW) .]

SECTION HISTORY

2007, c. 351, §1 (NEW).

§8-C. RULES CONCERNING ELECTRONIC RECORDS AND FILING

1. Rules and orders; processes and procedures. Notwithstanding any other provision of law, the Supreme Judicial Court may adopt rules and issue orders to permit or require the use of electronic forms, filings, records, e-mail and electronic signatures whenever paper forms, filings, records, written notice, postal mail and written signatures are required for judicial, legal or any other court-related process under the Maine Revised Statutes.

The Supreme Judicial Court, by rule, may determine any other processes or procedures appropriate to ensure adequate preservation, disposition, integrity, security, appropriate accessibility and confidentiality of the electronic records.

[2015, c. 78, §1 (NEW) .]

2. Electronic signatures. An electronic signature may be accepted as a substitute for and, if accepted, has the same force and effect as the use of a manual signature. The Supreme Judicial Court shall determine the type of electronic signature required, the manner and format in which the signature is affixed to the electronic record and the criteria that must be met by a party, including attorneys, filing a document.

[2015, c. 78, §1 (NEW) .]

SECTION HISTORY

2015, c. 78, §1 (NEW).

§9. POWER TO PRESCRIBE RULES IN CRIMINAL CASES

The Supreme Judicial Court shall have the power and authority to prescribe, repeal, add to, amend or modify rules of pleading, practice and procedure with respect to any and all proceedings through final judgment, review and post-conviction remedy in criminal cases before justices of the peace, District Courts, Superior Courts and the Supreme Judicial Court. [1987, c. 736, §1 (AMD).]

Such rules shall take effect on such date not less than 6 months after their promulgation as the Supreme Judicial Court may set. After their promulgation the Supreme Judicial Court may repeal, amend, modify or add to such rules from time to time without a waiting period. After the effective date of said rules as promulgated or amended, all laws in conflict therewith shall be of no further force or effect.

SECTION HISTORY

1987, c. 736, §1 (AMD).

§9-A. POWER TO PRESCRIBE RULES OF EVIDENCE

The Supreme Judicial Court shall have the power and authority to prescribe, repeal, add to, amend or modify rules of evidence with respect to any and all civil actions or other proceedings, and any and all proceedings in criminal cases before justices of the peace, District Courts, probate courts, Superior Courts and the Supreme Judicial Court. [1987, c. 736, §2 (AMD).]

Such rules shall take effect on such date not less than 6 months after their promulgation as the Supreme Judicial Court may set. After their promulgation, the Supreme Judicial Court may repeal, amend, modify or add to such rules from time to time without a waiting period. After the effective date of said rules as promulgated or amended, all laws in conflict therewith shall be of no further force or effect. Any statute incorporated specifically or in general terms in a rule shall remain in effect. [1977, c. 564, §12 (AMD).]

SECTION HISTORY

1973, c. 675, (NEW). 1977, c. 564, §12 (AMD). 1987, c. 736, §2 (AMD).

§9-B. COMMITTEE ON JUDICIAL RESPONSIBILITY AND DISABILITY

The Supreme Judicial Court has the power and authority to prescribe, repeal, add to, amend or modify rules relating to a committee to receive complaints, make investigations and make recommendations to the Supreme Judicial Court in regard to discipline, disability, retirement or removal of justices of the Supreme Judicial Court and the Superior Court and judges of the District Court and the probate courts. [1999, c. 547, Pt. B, §3 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

1977, c. 638, (NEW). 1979, c. 490, §1 (AMD). 1991, c. 885, §E2 (AMD). 1991, c. 885, §E47 (AFF). 1999, c. 547, §B3 (AMD). 1999, c. 547, §B80 (AFF).

§10. FACSIMILE SIGNATURE OF CLERK

A facsimile of the signature of the clerk of the Supreme Judicial Court imprinted by or at his direction upon any writ, summons, subpoena, order or notice or order of attachment, except executions and criminal process, shall have the same validity as his written signature.

Subchapter 1-A: ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE**§11. APPOINTMENT; SALARY**

(REPEALED)

SECTION HISTORY

1969, c. 467, §1 (NEW). P&SL 1973, c. 207, §11 (AMD). 1975, c. 408, §4 (AMD). 1979, c. 13, §1 (RP).

§12. SALARY

(REPEALED)

SECTION HISTORY

1969, c. 467, §1 (NEW). 1971, c. 531, §3 (RP).

§13. OFFICE SPACE AND CLERICAL HELP

(REPEALED)

SECTION HISTORY

1969, c. 467, §1 (NEW). 1979, c. 13, §2 (RP).

§14. DUTIES OF ADMINISTRATIVE ASSISTANT ASSIGNED BY CHIEF JUSTICE

(REPEALED)

SECTION HISTORY

1969, c. 467, §1 (NEW). 1975, c. 408, §5 (RPR). 1979, c. 13, §3 (RP).

Subchapter 1-B: ADMINISTRATIVE OFFICE OF THE COURTS**§15. ADMINISTRATIVE OFFICE OF THE COURTS; APPOINTMENT OF STATE COURT ADMINISTRATOR**

There is an Administrative Office of the Courts, directed by a State Court Administrator who is appointed by and serves at the pleasure of the Chief Justice of the Supreme Judicial Court. The State Court Administrator shall devote full time to the official duties of this position to the exclusion of any profession for profit. The State Court Administrator must have experience and skills in leadership, management, planning and administration. [1993, c. 675, Pt. C, §1 (AMD).]

SECTION HISTORY

1975, c. 408, §§5-A (NEW). 1993, c. 675, §C1 (AMD).

§16. ASSISTANTS AND EMPLOYEES OF STATE COURT ADMINISTRATOR

With the approval of the Chief Justice and within the limits of appropriations made therefor, the State Court Administrator may appoint assistants and other employees and purchase or lease equipment, services and facilities needed for the performance of the duties of the administrator. All administrative personnel in the Judicial Department are supervised by the State Court Administrator. [1993, c. 675, Pt. C, §1 (AMD).]

These personnel must have qualifications as prescribed by the Supreme Judicial Court. [1993, c. 675, Pt. C, §1 (AMD).]

SECTION HISTORY

1975, c. 408, §§5-A (NEW). 1993, c. 675, §C1 (AMD).

§17. DUTIES OF STATE COURT ADMINISTRATOR

The State Court Administrator, subject to the supervision and direction of the Chief Justice of the Supreme Judicial Court, is responsible for administration and management of the court system. The State Court Administrator shall: [1993, c. 675, Pt. C, §2 (AMD).]

1. Continuous survey and study. Carry on a continuous survey and study of the organization, operation, condition of business, practice and procedure of the Judicial Department. The State Court Administrator shall make recommendations to the Chief Justice to improve administration and management of the court system, including recommendations concerning the number of judges and other judicial personnel required for the efficient administration of justice;

[1993, c. 675, Pt. C, §3 (AMD) .]

1-A. Long-range planning. Develop and recommend to the Chief Justice long-range plans for the Judicial Department and operations of the courts;

[1993, c. 675, Pt. C, §4 (NEW) .]

2. Examine the status of dockets. Examine the status of dockets of all courts so as to determine cases and other judicial business that have been unduly delayed. From such reports, the administrator shall indicate which courts are in need of additional judicial personnel and make recommendations to the Chief Justice, to the Chief Justice of the Superior Court and to the Chief Judge of the District Court concerning the assignment or reassignment of personnel to courts that are in need of such personnel. The administrator shall also carry out the directives of the Chief Justice as to the assignment of personnel in these instances;

[1983, c. 269, §§1, 9 (AMD) .]

3. Investigate complaints. Investigate complaints with respect to the operation of the courts and relating to court and judicial security. Notwithstanding any other provision of law, complaints and investigative files that relate to court and judicial security are confidential. Nothing in this section precludes dissemination of such information to another criminal justice agency;

[2007, c. 597, §2 (AMD) .]

4. Examine statistical systems. Examine the statistical systems of the courts and make recommendations for a uniform system of judicial statistics. The administrator shall also collect and analyze statistical and other data relating to the business of the courts;

[1975, c. 408, §5-A (NEW) .]

5. Prescribe uniform administrative and business methods, etc. Prescribe uniform administrative and business methods, systems, forms, docketing and records to be used in the Supreme Judicial Court, in the Superior Court and in the District Court;

[1983, c. 269, §§2, 9 (AMD) .]

6. Implement standards and policies set by the Chief Justice. Implement standards and policies set by the Chief Justice regarding hours of court, the assignment of term parts and justices;

[1977, c. 544, §3 (AMD) .]

7. Act as supervisor of fiscal unit. Act as supervisor of the fiscal unit of the Administrative Office of the Courts and in so doing ensure that the fiscal unit:

A. Maintains fiscal controls and accounts of funds appropriated for the Judicial Department; [1995, c. 560, Pt. I, §1 (AMD) .]

B. Prepares all requisitions for the payment of state money appropriated for the maintenance and operation of the Judicial Department; [1995, c. 560, Pt. I, §1 (AMD) .]

C. Prepares budget estimates and submissions of state appropriations necessary for the maintenance and operation of the Judicial Department and makes appropriate recommendations; [1995, c. 560, Pt. I, §1 (AMD) .]

D. Collects statistical and other data and makes reports to the Chief Justice, to the Chief Justice of the Superior Court and to the Chief Judge of the District Court relating to the expenditures of public money for the maintenance and operation of the Judicial Department; [1997, c. 24, Pt. II, §1 (AMD) .]

E. Develops and implements a uniform set of accounting and budgetary accounts, based on generally accepted fiscal and accounting procedures, for the Supreme Judicial Court, for the Superior Court and for the District Court; and [1997, c. 24, Pt. II, §1 (AMD) .]

F. Periodically studies the feasibility of continuing any agreement with the State Tax Assessor by which the Department of Administrative and Financial Services, Bureau of Revenue Services performs revenue-collecting services for the Judicial Department and, if it is determined that this would be in the best interests of the State, continues such an agreement. [2011, c. 1, §2 (COR) .]

[2011, c. 1, §2 (COR) .]

8. Examine arrangements for use and maintenance of court facilities. Examine the arrangements for the use and maintenance of court facilities and supervise the purchase, distribution, exchange and transfer of judicial equipment and supplies thereof;

[1975, c. 408, §5-A (NEW) .]

9. Act as secretary. Act as secretary to the Judicial Conference;

[1975, c. 408, §5-A (NEW) .]

10. Submit an annual report. Submit an annual report to the Chief Justice, Legislature and Governor of the activities and accomplishments of the office for the preceding calendar year;

[1975, c. 408, §5-A (NEW) .]

11. Maintain liaison. Maintain liaison with the executive and the legislative branches and other public and private agencies whose activities impact the Judicial Department;

[1975, c. 408, §5-A (NEW) .]

12. Prepare and plan clerical offices. Prepare and plan for the organization and operation of clerical offices serving the Superior Court and the District Court;

[1983, c. 269, §§4, 9 (AMD) .]

13. Implement preservice and inservice educational and training programs. Develop and implement preservice and inservice educational and training programs for nonjudicial personnel of the Judicial Department;

[1987, c. 137, §1 (AMD) .]

14. Perform duties and attend other matters. Perform other duties and attend to other matters consistent with the powers delegated to the State Court Administrator by the Chief Justice and the Supreme Judicial Court;

[1991, c. 622, Pt. L, §4 (AMD) .]

15. Provide for court security. Plan and implement arrangements for safe and secure court premises to ensure the orderly conduct of judicial proceedings.

A. The State Court Administrator may contract for the services of qualified individuals as needed on a per diem basis to perform court security-related functions and services.

(1) For the purposes of this subsection, "qualified individuals" means municipal law enforcement officers, deputy sheriffs and other individuals who are certified pursuant to Title 25, section 2804-B or 2804-C and have successfully completed additional training in court security provided by the Maine Criminal Justice Academy or equivalent training.

(2) When under contract pursuant to this paragraph and then only for the assignment specifically contracted for, qualified individuals have the same duties and powers throughout the counties of the State as sheriffs have in their respective counties.

(3) Qualified municipal law enforcement officers and deputy sheriffs performing contractual services pursuant to this paragraph continue to be employees of the municipalities and counties in which they are employed.

(4) Qualified individuals other than municipal law enforcement officers or deputy sheriffs performing contractual services pursuant to this paragraph may not be considered employees of the State for any purpose, except that they must be treated as employees of the State for purposes of the Maine Tort Claims Act and the Maine Workers' Compensation Act of 1992. They must be paid reasonable per diem fees plus reimbursement of actual, necessary and reasonable expenses incurred in the performance of their duties, consistent with policies established by the State Court Administrator. [2011, c. 380, Pt. TT, §1 (AMD) .]

B. The State Court Administrator may employ other qualified individuals to perform court security-related functions and services as court security officers.

(1) Court security officers employed under this paragraph must be certified pursuant to Title 25, section 2803-A, subsection 8-B.

(2) When on assignment for court security functions, court security officers have the same powers and duties throughout the counties of the State as sheriffs have in their respective counties.

(3) Court security officers employed under this paragraph are state employees for all purposes. [2003, c. 400, §1 (NEW) .]

C. Notwithstanding any other provision of law, the plans, arrangements and files involving court security matters are confidential. Nothing in this section precludes dissemination of that information to another criminal justice agency; [2003, c. 400, §1 (NEW).]

[2011, c. 380, Pt. TT, §1 (AMD) .]

16. Report on out-of-state travel. Submit to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a quarterly report on out-of-state travel activity of the Judicial Department. The report must be submitted within 15 days after the end of each quarter and must include, for each individual who has been authorized to travel, the destination, purpose and cost by funding source of each trip; and

[1993, c. 675, Pt. C, §8 (AMD) .]

17. Statement of fiscal effect on judicial system. Apply the following requirements when the State Court Administrator prepares statements pertaining to the impact that executive orders and proposed legislation have upon judicial system resources, including the cost or savings to the judicial system. The State Court Administrator, in preparing such impact statements, shall make inquiry of the Chief Justice of the Superior Court, the Chief Judge of the District Court, a statewide association of prosecuting attorneys, a statewide association of criminal defense attorneys, a statewide association of trial attorneys and any other parties, as appropriate, in order to provide the most accurate estimate of the judicial branch impact of such legislation, by fiscal year.

A. The State Court Administrator shall furnish the statements to the legislative staff office designated to collect and assemble fiscal information for use of legislative committees under Title 3, section 163-A, subsection 10 and to:

(1) The Governor for judicial impact statements on executive orders; and

(2) The appropriate committee of the Legislature for the information of its members for proposed legislation. [1993, c. 675, Pt. C, §9 (NEW).]

B. The statement on a particular executive order prepared by the State Court Administrator must be included in the executive order if the executive order has a fiscal impact on the judicial system, as determined by the State Court Administrator. [1993, c. 675, Pt. C, §9 (NEW).]

C. The statement on proposed legislation prepared by the State Court Administrator must be considered in the preparation of the fiscal note included in a committee amendment or other amendment if the legislation or amendment has a fiscal impact on the judicial system, as determined by the State Court Administrator. [1993, c. 675, Pt. C, §9 (NEW).]

[2007, c. 240, Pt. YYY, §1 (AMD) .]

SECTION HISTORY

1975, c. 408, §§5-A (NEW). 1977, c. 544, §§1-6 (AMD). 1983, c. 269, §§1-4,9 (AMD). 1987, c. 137, §§1-3 (AMD). 1987, c. 776, §§1,2 (AMD). 1989, c. 324, (AMD). 1991, c. 570, §1 (AMD). 1991, c. 622, §§14-6 (AMD). 1991, c. 885, §E3 (AMD). 1991, c. 885, §E47 (AFF). 1993, c. 675, §§C2-9 (AMD). 1995, c. 560, §I1 (AMD). 1997, c. 24, §§II1,2 (AMD). 2003, c. 400, §1 (AMD). 2007, c. 240, Pt. YYY, §1 (AMD). 2007, c. 597, §2 (AMD). RR 2011, c. 1, §2 (COR). 2011, c. 380, Pt. TT, §1 (AMD).

§17-A. PUBLICATIONS AND TECHNOLOGY

1. Informational publications and record searches. The State Court Administrator may establish a fee schedule to cover the cost of printing and distribution of publications and forms, the procedures for the sale of these publications and forms and record searches.

[2013, c. 502, Pt. V, §1 (AMD) .]

2. Fund; fees deposited. All fees collected under this section from the sale of publications or forms must be deposited in a fund for use by the State Court Administrator to fund publications, forms and information technology. Twenty percent of fees collected for record searches must be deposited in the fund, and 80% of fees collected for record searches must be deposited in the General Fund.

[2013, c. 502, Pt. V, §1 (AMD) .]

SECTION HISTORY

1993, c. 172, §1 (NEW). 2013, c. 159, §1 (AMD). 2013, c. 502, Pt. V, §1 (AMD) .

§17-B. FUNDS FROM THE FEDERAL GOVERNMENT AND PRIVATE SOURCES

The State Court Administrator may accept, use, expend and dispose of, on behalf of the State, funds, equipment, supplies, materials and property from any agency of the United States or from any private foundation or other private source. [1997, c. 11, §1 (NEW) .]

§17-B. Subleasing

(As enacted by PL 1997, c. 362, §1 is REALLOCATED TO TITLE 4, SECTION 17-C)

SECTION HISTORY

RR 1997, c. 1, §1 (RAL). 1997, c. 11, §1 (NEW). 1997, c. 362, §1 (NEW) .

§17-C. SUBLEASING

(REALLOCATED FROM TITLE 4, SECTION 17-B)

Notwithstanding any other provision of law, the Judicial Department may sublease real property that it holds in the Town of York as tenant to any other government agency for a period of 5 years or less. [1997, c. 1, §1 (RAL) .]

SECTION HISTORY

RR 1997, c. 1, §1 (RAL) .

§17-D. FEES FOR TRAINING, SECURITY AND OTHER EXPENSES

The State Court Administrator may establish fees on lawyers, guardians ad litem, interpreters, mediators and other professionals who routinely participate in court proceedings to cover the costs of training, orientation, continuing education, background investigations, entry screening and security provided to these professionals. The State Court Administrator also may establish fees on 3rd parties to cover the costs of the use of court facilities for purposes not related to court functions by those 3rd parties. All fees collected under this section must be deposited in a nonlapsing Other Special Revenue Funds account to be used for these purposes only. This account may receive money from grants, gifts, bequests and donations. [2015, c. 238, §1 (NEW) .]

SECTION HISTORY

2015, c. 238, §1 (NEW) .

§18. COURT MEDIATION SERVICE

(REPEALED)

SECTION HISTORY

1985, c. 396, §1 (NEW). 1985, c. 562, (AMD). 1985, c. 750, §1 (AMD). 1985, c. 814, §K (AMD). 1987, c. 518, (AMD). 1989, c. 617, §1 (AMD). 1989, c. 702, §E1 (AMD). 1995, c. 123, §§1,2 (AMD). 1995, c. 537, §2 (AMD). 1995, c. 560, §I2 (RP). 1995, c. 694, §D1 (AMD). 1995, c. 694, §E2 (AFF). 1997, c. 393, §§A3,4 (AMD).

§18-A. MAINE CIVIL LEGAL SERVICES FUND ESTABLISHED

1. Creation of fund. The Maine Civil Legal Services Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support civil legal services to persons who otherwise are not able to pay for these services.

A. Money in the fund not needed to meet current obligations must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund. [1991, c. 503, (NEW).]

B. Except as provided in paragraph C, money in the fund must be disbursed to legal services providers to support the provision of free civil legal services to low-income or needy people or the needy elderly in this State. Money disbursed from the fund may not be used by a recipient to support lobbying as defined in Title 3, section 312-A, subsection 9 unless the recipient is responding to a request by a Legislator or a member of the Executive Department. Only the following legal services providers may receive disbursement to provide free civil legal services:

- (1) Nonprofit organizations whose missions include the provision of free civil legal services and who have at least one year of experience providing free civil legal services;
- (2) Legal aid clinics of accredited law schools operating exclusively in Maine; and
- (3) Programs whose primary mission is to coordinate pro bono legal services for low-income people in this State. [2005, c. 361, §1 (AMD).]

C. In the first year the Judicial Department may draw from the fund any programming, printing and distribution costs that are necessary to implement surcharges on fines, penalties or forfeitures as provided in subsection 3-A. [1997, c. 173, §2 (NEW).]

[2005, c. 361, §1 (AMD) .]

2. Administration. The Supreme Judicial Court, or a person or organization designated by the court, is the administrator and shall administer the fund. The administrator shall disburse funds according to determinations made by the commission established in subsection 6. The administrator shall report at least annually to the Legislature on the previous year's income and expenditures.

[1997, c. 173, §3 (AMD) .]

3. Contribution.

[1997, c. 173, §4 (RP) .]

3-A. Funding. Funding for the fund may be provided by the following methods.

A. For all fees collected by the Judicial Department after July 1, 2005, 7% must be deposited in the fund. This paragraph does not apply to fees dedicated under section 17-A or section 18-B, subsection 8. [2005, c. 361, §2 (RPR).]

B. A surcharge of \$10 must be imposed by a court on each civil fine, penalty or forfeiture imposed by the court and deposited in the fund. [2005, c. 361, §3 (AMD) .]

[2005, c. 361, §§2, 3 (AMD) .]

4. Other funds. The fund may receive money from any source, including grants, gifts, bequests and donations. Funds appropriated and money received for the benefit of the fund must be deposited to the fund.

[1991, c. 503, (NEW) .]

5. Allocation.

[1997, c. 173, §6 (RP) .]

6. Distribution of funds. The Supreme Judicial Court shall appoint the Civil Legal Services Fund Commission, consisting of 3 persons knowledgeable about the problems of ensuring access to justice in this State, to determine how to distribute the funds in accordance with subsection 1 in a manner that will most efficiently and effectively maintain and enhance access to justice in this State. The commission shall review the allocation at least every 4 years or on the request of any member of the commission and shall make adjustments to the allocation when appropriate. Funds must be distributed at least quarterly with the first distribution occurring no later than January 2, 1998. The commission shall compile information on the types of cases handled by recipient organizations and shall report this information and its allocation decisions to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than February 1, 1999.

[1997, c. 173, §7 (NEW) .]

SECTION HISTORY

1991, c. 503, (NEW). 1997, c. 173, §§1-7 (AMD). 2005, c. 361, §§1-3 (AMD) .

§18-B. COURT ALTERNATIVE DISPUTE RESOLUTION SERVICE

1. Court Alternative Dispute Resolution Service. There is established within the Administrative Office of the Courts a Court Alternative Dispute Resolution Service to provide alternative dispute resolution, referred to in this section as "ADR," services in the courts throughout the State.

[1995, c. 560, Pt. I, §3 (NEW) .]

2. ADR providers. The Judicial Department, through the State Court Administrator or the administrator's designee, shall contract for the services of qualified persons or organizations to serve as providers of ADR services to parties. The ADR providers are not employees of the State for any purpose. The ADR providers are entitled to be paid a reasonable per diem fee plus reimbursement of their actual, necessary and reasonable expenses incurred in the performance of their duties, consistent with policies established by the Administrative Office of the Courts.

[1995, c. 560, Pt. I, §3 (NEW) .]

3. Immunity from civil liability. A person serving as an ADR provider under contract with the Judicial Department or as the Director of the Court Alternative Dispute Resolution Service is immune from any civil liability, as are employees of governmental entities, under the Maine Tort Claims Act, for acts performed within the scope of the provider's or the director's duties.

[1995, c. 560, Pt. I, §3 (NEW) .]

4. Staff. With the advice and approval of the Court Alternative Dispute Resolution Service Committee, the State Court Administrator shall employ or contract with a person to serve as the Director of the Court Alternative Dispute Resolution Service. The State Court Administrator shall provide other necessary staff and clerical assistance to the Court Alternative Dispute Resolution Service, within the limits of funds available.

[1995, c. 560, Pt. I, §3 (NEW) .]

5. Facilities. The State Court Administrator shall provide a principal office for the Court Alternative Dispute Resolution Service and shall arrange for facilities throughout the State as necessary and adequate for the conduct of ADR sessions, within the limits of funds available.

[1995, c. 560, Pt. I, §3 (NEW) .]

6. Court Alternative Dispute Resolution Service Committee. The Court Alternative Dispute Resolution Service Committee, or "committee," is established to set policy for and monitor the Court Alternative Dispute Resolution Service. The committee consists of:

A. The Chief Justice of the Supreme Judicial Court or a designee; [1995, c. 560, Pt. I, §3 (NEW) .]

B. The Chief Justice of the Superior Court or a designee; [1995, c. 560, Pt. I, §3 (NEW) .]

C. The Chief Judge of the District Court or a designee; [1995, c. 560, Pt. I, §3 (NEW) .]

D. The State Court Administrator or a designee; [1995, c. 560, Pt. I, §3 (NEW) .]

E. A Justice of the Superior Court, who is appointed by and serves at the pleasure of the Chief Justice of the Supreme Judicial Court; [1995, c. 560, Pt. I, §3 (NEW) .]

F. A Judge of the District Court, who is appointed by and serves at the pleasure of the Chief Justice of the Supreme Judicial Court; and [1995, c. 560, Pt. I, §3 (NEW) .]

G. Any additional members appointed by the Chief Justice of the Supreme Judicial Court that the Chief Justice considers necessary to the committee's operation. [1995, c. 560, Pt. I, §3 (NEW) .]

[1995, c. 560, Pt. I, §3 (NEW) .]

7. Fees. When a court refers parties to the Court Alternative Dispute Resolution Service, the court shall assess the parties a fee to be apportioned equally among the parties, unless the court otherwise directs. The fee must be deposited in the dedicated account created in subsection 8.

A party may file an in forma pauperis application for waiver of fee. If the court finds that the party does not have sufficient funds to pay the fee, it shall order the fee waived.

[1995, c. 560, Pt. I, §3 (NEW) .]

8. Court Alternative Dispute Resolution Service Fund. The Court Alternative Dispute Resolution Service Fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for ADR services provided pursuant to this section must be deposited in the fund.

Except as otherwise provided in this section, the Administrative Office of the Courts shall use 100% of the resources in the funds from nondesignated cases to cover the costs of providing ADR services as required under this section. All funds from cases handled by the Court Alternative Dispute Resolution Service pursuant to Title 38, section 347-A, subsection 4, paragraph E must be used for the costs of providing ADR services as required under this section.

[1997, c. 643, Pt. EE, §1 (AMD) .]

9. Rules. The Supreme Judicial Court shall adopt rules to govern the referral of cases to the Court Alternative Dispute Resolution Service.

[1995, c. 560, Pt. I, §3 (NEW) .]

10. Land use mediation. The land use mediation program is a program within the Court Alternative Dispute Resolution Service.

A. The Director of the Court Alternative Dispute Resolution Service shall administer the land use mediation program established in Title 5, chapter 314, subchapter II. [1997, c. 393, Pt. A, §5 (NEW) .]

B. A land use mediation fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for mediation services pursuant to Title 5, chapter 314, subchapter II must be deposited in the fund. The Administrative Office of the Courts shall use the resources in the fund to cover the costs of providing mediation services as required under Title 5, chapter 314, subchapter II. [1997, c. 393, Pt. A, §5 (NEW) .]

[2001, c. 184, §2 (AMD) .]

11. Mediation of disputes involving natural gas pipelines. The natural gas pipeline dispute resolution program is a program within the Court Alternative Dispute Resolution Service.

A. The Director of the Court Alternative Dispute Resolution Service shall administer the natural gas pipeline dispute resolution program established in Title 5, chapter 314, subchapter III. [1999, c. 346, §1 (NEW) .]

B. A natural gas pipeline dispute resolution fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for mediation services pursuant to Title 5, chapter 314, subchapter III must be deposited in the fund. The Administrative Office of the Courts shall use the resources in the fund to cover the costs of providing mediation services as required under Title 5, chapter 314, subchapter III. [1999, c. 346, §1 (NEW) .]

[1999, c. 346, §1 (NEW) .]

12. Mediation involving mortgage foreclosures on owner-occupied residential property. The foreclosure mediation program is a program within the Supreme Judicial Court to provide mediation in the courts throughout the State pursuant to Title 14, section 6321-A.

A. The Supreme Judicial Court, or a person or organization designated by the court, shall administer the foreclosure mediation program. [2009, c. 402, §1 (NEW) .]

B. A foreclosure mediation program fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected to support mediation services pursuant to Title 14, section 6321-A, subsection 3 must be deposited in the fund. The Administrative Office of the Courts shall use the resources in the fund to cover the costs of providing mediation services as required under Title 14, section 6321-A. [2009, c. 402, §1 (NEW) .]

[2009, c. 402, §1 (NEW) .]

SECTION HISTORY

1995, c. 560, §13 (NEW). 1997, c. 393, §A5 (AMD). 1997, c. 643, §EE1 (AMD). 1999, c. 346, §1 (AMD). 2001, c. 184, §2 (AMD). 2009, c. 402, §1 (AMD).

Subchapter 1-C: JUDICIAL REGIONS: ASSIGNMENT OF JUSTICES AND JUDGES

§19. CREATION OF JUDICIAL REGIONS; REGIONAL COURT CENTERS AND REGIONAL PRESIDING JUSTICES; DUTIES

The Chief Justice of the Supreme Judicial Court may by order divide the State into judicial regions for administrative and venue purposes, each judicial region to contain one or more counties, but in no event may counties be divided for the creation of judicial regions. [1983, c. 688, §1 (AMD).]

SECTION HISTORY

1975, c. 408, §6 (NEW). 1983, c. 269, §§5,9 (AMD). 1983, c. 688, §1 (AMD).

§20. PROVIDE FOR COLLECTION OF OVERDUE FINES AND FEES FROM MONEY COLLECTED

The Chief Justice of the Supreme Judicial Court shall plan and implement arrangements for the collection of overdue fines and fees due the state courts, the costs of which may be paid from money collected. These arrangements may include but are not limited to: Employing special project clerks, assistants and other staff; contracting with state agencies; contracting for special or private debt collection services; purchasing necessary equipment; and compensating state, county and municipal law enforcement agencies for services provided. [2011, c. 131, §1 (AMD).]

SECTION HISTORY

1989, c. 875, Pt. E, §3 (NEW). 2011, c. 131, §1 (AMD).

Subchapter 1-D: COURT PERSONNEL AND FINANCES

§22. STATE RESPONSIBILITY FOR COURT FINANCES

Beginning with the fiscal year commencing July 1, 1976, the Legislature shall appropriate funds for the expenses of the Judicial Department. [1975, c. 408, §7 (NEW).]

SECTION HISTORY

1975, c. 408, §7 (NEW).

§23. COURT PERSONNEL AND COMPENSATION

The Supreme Judicial Court shall prescribe by rule a personnel classification plan for all courts in the Judicial Department. [1975, c. 408, §7 (NEW).]

SECTION HISTORY

1975, c. 408, §7 (NEW).

§24. OPERATING BUDGETS

The State Court Administrator shall, subject to the approval of the Chief Justice, prepare biennially a consolidated operating budget for all courts in the State to be known as the Judicial Department operating budget. The administrator may be assisted in this task by the Chief Justice of the Superior Court and the Chief Judge of the District Court. [1993, c. 675, Pt. C, §10 (AMD).]

The State Court Administrator shall prepare the consolidated court budget according to procedures prescribed by the State Budget Officer. Budget requests and other additional information as requested must be transmitted to the State Budget Officer on or before September 1st of the even-numbered years. The Governor shall include in the budget submission the judicial budget without revision, in accordance with Title 5, section 1664, but with recommendations the Governor considers proper. [1993, c. 675, Pt. C, §10 (AMD).]

The State Court Administrator, subject to the approval of the Chief Justice, shall prescribe the financial management procedures to be used in all courts of the Judicial Department. [1975, c. 408, §7 (NEW).]

SECTION HISTORY

1975, c. 408, §7 (NEW). 1979, c. 127, §9 (AMD). 1983, c. 269, §§6,9 (AMD). 1993, c. 675, §C10 (AMD).

§25. REIMBURSEMENT OF COUNTIES FOR SALARIES AND EXPENSES OF COURT AND JURY OFFICERS

The Judicial Department shall compensate each county for those reasonable costs related to salaries and expenses as agreed upon between the Judicial Department and the respective county. The compensation may be only for the number of court security officers requested to serve the court either in that county or another by the Judicial Department. [1991, c. 570, §2 (AMD).]

The Judicial Department shall include sufficient funds for this compensation within its operating budget. [1991, c. 570, §2 (AMD).]

SECTION HISTORY

1977, c. 705, §1 (NEW). 1989, c. 722, §1 (AMD). 1991, c. 570, §2 (AMD).

§26. USE OF EXECUTIVE DEPARTMENT AGENCIES

Unless otherwise prohibited by law, the Judicial Department shall use the services of and be included in any systems established and maintained by the bureaus within the Department of Administrative and Financial Services and is subject to the same rules that apply to the Executive Department unless specifically exempted. [1997, c. 24, Pt. II, §3 (AMD).]

SECTION HISTORY

1985, c. 733, §1 (NEW). 1997, c. 24, §III3 (AMD).

§27. FUNDS COLLECTED BY BUREAU OF REVENUE SERVICES

1. Generally. The State Court Administrator shall enter into an agreement with the State Tax Assessor by which the Department of Administrative and Financial Services, Bureau of Revenue Services may collect on the Judicial Department's behalf fees, fines, costs and penalties, the imposition of which is provided for by this Title. Any such agreement must specify which categories of fees, fines, forfeitures, costs and penalties are to be collected by the Bureau of Revenue Services.

[1997, c. 24, Pt. II, §4 (NEW); 1997, c. 526, §14 (AMD) .]

2. Notice and demand; remedies provided by Title 36. The State Tax Assessor shall provide notice substantially equivalent to that set forth in Title 36, section 171. Once notice and a demand for payment have been provided, the State Tax Assessor may proceed to collect the amount due by any collection method authorized by Title 36.

[1997, c. 24, Pt. II, §4 (NEW) .]

3. Deposited in General Fund. Funds collected on behalf of the Judicial Department by the State Tax Assessor must be deposited in the proper fund in State Government, except that, for the 1998-1999 biennium, the State Tax Assessor may retain sufficient funds to cover the administrative expenses incurred in collection.

After the 1998-1999 biennium, the Judicial Department shall budget sufficient funds to pay the Department of Administrative and Financial Services, Bureau of Revenue Services, Bureau of Revenue Services Fund, Internal Services Fund account on a cost-reimbursement basis for services provided.

[1997, c. 643, Pt. F, §1 (AMD) .]

SECTION HISTORY

1997, c. 24, §II4 (NEW). 1997, c. 526, §14 (AMD). 1997, c. 643, §F1 (AMD).

§28. ADDITIONAL FEE REVENUE DEDICATED

The judicial branch may credit 4%, up to a maximum of \$300,000 per fiscal year, of fee revenue collected pursuant to administrative orders of the court to a nonlapsing Other Special Revenue Funds account to support the capital expenses of the judicial branch. If the fee revenue from the judicial branch is less than the amount budgeted as undedicated fee revenue for the General Fund, the amount credited to the Other Special Revenue Funds account during the fiscal year must be reduced by a percentage equal to the percentage by which General Fund undedicated fee revenue is under budget. [2011, c. 380, Pt. HHH, §1 (AMD).]

SECTION HISTORY

2009, c. 213, Pt. QQ, §2 (NEW). 2011, c. 380, Pt. HHH, §1 (AMD).

Subchapter 1-E: COLLECTIVE BARGAINING

§31. PURPOSE

It is declared to be the public policy of the State and it is the purpose of this subchapter to promote the continued improvement of the relationship between the Judicial Department and its employees by providing a uniform basis for recognizing the right of judicial employees to join labor organizations of their own choosing and to be represented by these organizations in matters concerning their employment relations with the Judicial Department. [1983, c. 412, §1 (NEW).]

SECTION HISTORY

1983, c. 412, §1 (NEW).

§32. PROCEDURES; ADVISORY COMMITTEE

1. Collective bargaining. The Supreme Judicial Court may propose appropriate procedures for defining and implementing the collective bargaining rights of Judicial Department employees, including, without limitation, definition of employees and appropriate subjects of collective bargaining, determination of appropriate bargaining units, certification and election of a bargaining agent, appeals process, impasse resolution procedure and enforcement mechanisms.

[1983, c. 412, §1 (NEW) .]

2. Advisory committee. The Supreme Judicial Court shall designate an advisory committee to recommend procedures. The committee shall include representatives of public sector management and public sector bargaining agents. Opportunity shall be provided for the expression of views of Judicial Department employees.

[1983, c. 412, §1 (NEW) .]

SECTION HISTORY

1983, c. 412, §1 (NEW).

Subchapter 1-F: COURT UNIFICATION OVERSIGHT COMMITTEE

§41. COURT UNIFICATION OVERSIGHT COMMITTEE

(REPEALED)

SECTION HISTORY

1999, c. 731, §ZZZ1 (NEW). 1999, c. 731, §ZZZ42 (AFF). 2007, c. 466, Pt. C, §1 (RP).

Subchapter 2: LAW COURT

§51. CONSTITUTION OF COURT; CONCURRENCE REQUIRED

When sitting as a Law Court to determine questions of law arising in any civil or criminal action or proceeding, the Supreme Judicial Court must be composed as provided by rules adopted by that court and shall hear and determine such questions by the concurrence of a majority of the justices sitting and qualified to act. [2007, c. 518, §1 (AMD).]

SECTION HISTORY

1969, c. 354, (RPR). 2007, c. 518, §1 (AMD).

§52. JUSTICE NOT TO SIT IN REVIEW OF CASE TRIED BEFORE HIM

No justice shall sit in the law court upon the hearing of any cause tried before him nor take any part in the decision thereof.

§53. SESSIONS

For the purpose of appellate review by the Supreme Judicial Court sitting as a law court, the State shall constitute one district. The number of sessions of the law court in each year and the method of determining the time and place thereof shall be in accordance with rules promulgated by the Supreme Judicial Court. [1969, c. 354, (RPR).]

SECTION HISTORY

1969, c. 354, (RPR).

§54. CLERKS; DUTIES; COMPENSATION; EXPENSES OF COUNTY

The Chief Justice of the Supreme Judicial Court shall appoint a clerk of the law court to serve at his pleasure and shall, from time to time, designate one or more of the clerks of court or some competent person or persons who shall act as additional clerks of the law court. The clerk of the law court shall receive such salary as the Chief Justice shall determine and shall devote full time to his duties. The clerk of the law court shall also act as reporter of decisions. The Chief Justice or in his absence the senior justice present shall allow to the county in which any law term is held such expense as may be incurred on account of such law term which shall be paid by the State. The dockets of the law court shall be made from time to time and kept as the court may direct. [1975, c. 408, §8 (AMD).]

SECTION HISTORY

1965, c. 392, §1 (AMD). 1967, c. 220, (AMD). 1969, c. 467, §§2,3 (AMD). 1975, c. 408, §8 (AMD).

§55. PRESERVATION OF BRIEFS

The clerk of the Supreme Judicial Court shall preserve 2 complete sets of briefs filed in all cases in the Supreme Judicial Court sitting as the Law Court. Under the direction of the Chief Justice these briefs shall be arranged in order. One set each shall thereupon be delivered to the law libraries respectively of Cumberland

and Penobscot Counties for preservation and reference. All expenses incurred in preparation and delivery of these briefs shall be paid by the State from the appropriation for expenses of the Supreme Judicial Court. [1983, c. 164, (AMD).]

SECTION HISTORY

1977, c. 114, §1 (RPR). 1979, c. 13, §§3-A,3-B (AMD). 1983, c. 164, (AMD).

§56. MESSENGER IN CUMBERLAND COUNTY

(REPEALED)

SECTION HISTORY

1969, c. 188, (RP).

§57. JURISDICTION; DISPOSITION OF CASES; TECHNICAL ERRORS IN PLEADING AND PROCEDURE

The following cases only come before the court as a court of law: Cases on appeal from the District Court, the Superior Court or a single Justice of the Supreme Judicial Court or from the probate courts; questions of law arising on reports of cases, including interlocutory orders or rulings of such importance as to require, in the opinion of the justice, review by the Law Court before any further proceedings in the action; agreed statement of facts; cases presenting a question of law; all questions arising in cases in which equitable relief is sought; motions to dissolve injunctions issued after notice and hearing or continued after a hearing; questions arising on habeas corpus, mandamus and certiorari and questions of state law certified by the federal courts. They must be marked "law" on the docket of the county or district where they are pending, and there continued until their determination is certified by the Clerk of the Law Court to the clerk of courts of the county and the court shall immediately after the decision of the question submitted to it make such order, direction, judgment or decree as is fit and proper for the disposal of the case, and cause a rescript in all civil actions, briefly stating the points therein decided, to be filed therein, which rescript must be certified by the Clerk of the Law Court to the clerk of courts of the county or district where the action is pending and to the Reporter of Decisions. If no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued the case, together with such rescript, if the reporter deems the same of sufficient importance for publication. [1999, c. 731, Pt. ZZZ, §2 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

When the issues of law presented in any case before the Law Court can be clearly understood, they must be decided, and a case may not be dismissed by the Law Court for technical errors in pleading alone or for want of proper procedure if the record of the case presents the merits of the controversy between the parties. Whenever, in the opinion of the Law Court, the ends of justice require, it may remand any case to the court below or to any justice or judge thereof for the correction of any errors in pleading or procedure. In remanding said case, the Law Court may set the time within which said correction must be made and said case reentered in the Law Court. [1999, c. 731, Pt. ZZZ, §2 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

When it appears to the Supreme Court of the United States, or to any court of appeals or district court of the United States, that there is involved in any proceeding before it one or more questions of law of this State, which may be determinative of the cause, and there are no clear controlling precedents in the decisions of the Supreme Judicial Court, such federal court may certify any such questions of law of this State to the Supreme Judicial Court for instructions concerning such questions of state law, which certificate the Supreme Judicial Court sitting as the Law Court may, by written opinion, answer. [1999, c. 731, Pt. ZZZ, §2 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

SECTION HISTORY

1965, c. 158, §§1,2 (AMD). 1965, c. 356, §1 (AMD). 1965, c. 513, §2 (AMD). 1967, c. 544, §2 (AMD). 1979, c. 540, §2 (AMD). 1999, c. 731, §ZZZ2 (AMD). 1999, c. 731, §ZZZ42 (AFF).

§58. COURTHOUSE SECURITY FUND

1. Creation of fund. The Courthouse Security Fund, referred to in this section as "the fund," is created under the jurisdiction and control of the Supreme Judicial Court.

[2005, c. 113, §1 (NEW) .]

2. Source of fund. The fund consists of all money appropriated or allocated for inclusion in the fund, from whatever source, and any other resources available to the fund.

[2005, c. 113, §1 (NEW) .]

3. Application of fund. Money in the fund may be used to improve security and improve public safety at court facilities under the control of the State or a subdivision of the State. Money in the fund not needed to meet the requirements of this subsection may accrue interest and be invested in a manner permitted by law.

[2005, c. 113, §1 (NEW) .]

4. Revolving fund. The fund is a nonlapsing, revolving fund.

[2005, c. 113, §1 (NEW) .]

SECTION HISTORY

2005, c. 113, §1 (NEW).

Chapter 3: SUPERIOR COURT

§101. CONSTITUTION OF COURT

The Superior Court, as established, consists of 17 justices and such Active Retired Justices as may be appointed and serving on the court, learned in the law and of sobriety of manners. The Chief Justice of the Superior Court shall assign the Justices of the Superior Court to preside at various locations of the court. Whenever it becomes necessary, the Chief Justice of the Supreme Judicial Court may designate a Justice of the Supreme Judicial Court or any Active Retired Justice of the Supreme Judicial Court to hold a term of Superior Court. The Chief Justice of the Superior Court may, when necessary, assign an Active Retired Justice of the Superior Court to hold a term of Superior Court. The Chief Justice of the Superior Court may designate any Justice of the Superior Court and the Chief Justice of the Supreme Judicial Court may designate any Justice of the Supreme Judicial Court to hold one or more sessions of the Superior Court, separate from the session presided over by the justice holding the regular trial term. [2005, c. 519, Pt. III, §1 (AMD).]

SECTION HISTORY

1965, c. 437, §1 (AMD). 1969, c. 476, §1 (AMD). 1971, c. 504, §1 (AMD). 1973, c. 599, §1 (AMD). 1983, c. 688, §2 (AMD). 1983, c. 825, §1 (AMD). 1985, c. 434, §1 (RPR). 2005, c. 519, §III1 (AMD).

§101-A. CHIEF JUSTICE OF THE SUPERIOR COURT

The Chief Justice of the Supreme Judicial Court shall designate one of the Justices of the Superior Court as the Chief Justice of the Superior Court. He shall serve at the pleasure and under the supervision of the Chief Justice of the Supreme Judicial Court and shall be responsible for the operation of the Superior Court. Any authority relating to the operation of the Superior Court, that is vested by law in the Chief Justice of the Supreme Judicial Court, may be delegated by him to the Chief Justice of the Superior Court acting under his supervision. The Chief Justice of the Superior Court shall also perform such additional duties as may be assigned to him from time to time by the Chief Justice of the Supreme Judicial Court. The term "Justice of the Superior Court" includes the Chief Justice of the Superior Court. [1983, c. 269, §§ 7, 9 (NEW).]

SECTION HISTORY

1983, c. 269, §§7,9 (NEW).

§102. SALARY; EXPENSES

1. Chief justice; salary. The Chief Justice of the Superior Court is entitled to receive a salary, for fiscal year 1998-99 and thereafter, of \$94,000, to be paid biweekly.

[1997, c. 643, Pt. M, §4 (AMD) .]

2. Associate justice; salary. Each Justice of the Superior Court shall receive a salary as follows:

A. For fiscal year 1998-99 and thereafter, \$90,000, to be paid biweekly. [1997, c. 643, Pt. M, §5 (RPR).]

B. [1989, c. 596, Pt. C, §2 (RP).]

C. [1989, c. 596, Pt. C, §2 (RP).]

D. [1989, c. 596, Pt. C, §2 (RP).]

E. [1989, c. 596, Pt. C, §2 (RP).]

[1997, c. 643, Pt. M, §5 (AMD) .]

2-A. Cost-of-living adjustment. The salaries of the associate justices shall be adjusted as established in Title 4, section 4, subsection 2-A.

[1989, c. 501, Pt. O, §§13, 22 (NEW); 1989, c. 600, Pt. B, §§9, 10 (AMD); 1989, c. 878, Pt. D, §§14, 15 (AMD) .]

3. Expenses. Section 4, relating to reimbursement of Justices of the Supreme Judicial Court for expenses incurred by them, including clerical assistance, shall apply to Justices of the Superior Court. The Chief Justice of the Supreme Judicial Court or his designee may specify by order a maximum amount to be expended by any justice for clerical assistance.

[1983, c. 853, Pt. C, §§7, 18 (NEW) .]

4. Exception. The salary provisions of this section shall not apply to justices who have retired prior to December 1, 1984.

[1983, c. 853, Pt. C, §§7, 18 (NEW) .]

SECTION HISTORY

1965, c. 412, §6 (AMD). 1965, c. 418, (AMD). 1965, c. 437, §2 (AMD). 1965, c. 472, §§1,2 (AMD). 1965, c. 513, §3 (AMD). 1967, c. 476, §4 (AMD). 1969, c. 476, §2 (AMD). 1969, c. 580, §2 (AMD). P&SL 1971, c. 179, §M2 (AMD). 1971, c. 504, §2 (AMD). P&SL 1973, c. 209, §6 (AMD). 1973, c. 509, §5 (AMD). 1973, c. 599, §2 (AMD). 1975, c. 383, §2 (AMD). 1975, c. 408, §§8-A (AMD). 1975, c. 735, §2 (AMD). 1977, c. 696, §20 (AMD). 1979, c. 127, §10 (AMD). 1979, c. 544, §6 (AMD). 1979, c. 663, §6 (AMD). 1981, c. 486, §2 (AMD). 1983, c. 269, §8 (AMD). 1983, c. 477, Pt. E, Subpt. 1, §2 (AMD). 1983, c. 853, §§C7,18 (RPR). 1983, c. 863, §§B6,B45 (AMD). 1989, c. 501, §§O12,13,22 (AMD). 1989, c. 596, §C2 (AMD). 1989, c. 596, §§C2,8 (AMD). 1989, c. 600, §§B9,10 (AMD). 1991, c. 824, §§B13,14 (AFF). 1997, c. 643, §§M4,5 (AMD).

§103. COMPENSATION UPON RETIREMENT

(REPEALED)

SECTION HISTORY

1965, c. 442, §2 (AMD). 1967, c. 494, §§2,3 (AMD). 1969, c. 466, §3 (AMD). 1969, c. 469, §§3,4 (AMD). 1971, c. 64, §2 (AMD). 1975, c. 285, (AMD). 1975, c. 701, §3 (AMD). 1977, c. 564, §13 (AMD). 1981, c. 488, §§3,4 (AMD). 1983, c. 167, §2 (AMD). 1983, c. 853, §§C8,18 (RP).

§104. ACTIVE RETIRED JUSTICES

Any Justice of the Superior Court who has retired from the court under this chapter in effect prior to December 1, 1984, or any Justice of the Superior Court who retires or terminates that justice's service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Justice of the Superior Court. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, may appoint any eligible justice as an Active Retired Justice of the Superior Court for a term of 7 years, unless sooner removed. That justice may be reappointed for a like term. Any justice so appointed and designated thereupon

constitutes a part of the court from which that justice has retired and has the same jurisdiction and is subject to the same restrictions therein as before retirement. An Active Retired Justice of the Superior Court may serve as an arbitrator and conduct arbitration in accordance with rules that may be adopted by the Supreme Judicial Court, except that nothing in this section requires the Supreme Judicial Court to adopt those rules. An Active Retired Justice of the Superior Court may chair screening panels in accordance with Title 24, chapter 21, subchapter 4-A. An Active Retired Justice of the Superior Court may act only in the cases and matters and hold court only at the terms and times as that justice is directed and assigned by the Chief Justice of the Superior Court. Any Active Retired Justice of the Superior Court may be directed by the Chief Justice to hold any term of the Superior Court in any county and when so directed has authority and jurisdiction therein the same as if that justice were the regular justice of that court. Whenever the Chief Justice of the Superior Court so orders, that justice may hear all matters and issue all orders, notices, decrees and judgments in vacation that any justice of that Superior Court is authorized to hear and issue. An Active Retired Justice of the Superior Court may be assigned by the Chief Justice of the Superior Court to act as a mediator for the foreclosure mediation program in accordance with Title 14, section 6321-A, subsection 7. An Active Retired Justice of the Superior Court receives reimbursement for expenses actually and reasonably incurred in the performance of that justice's duties. [2009, c. 402, §2 (AMD).]

SECTION HISTORY

1967, c. 544, §3 (AMD). 1969, c. 466, §4 (AMD). 1975, c. 771, §18 (AMD). 1983, c. 853, §§C9,18 (AMD). 2009, c. 136, §1 (AMD). 2009, c. 402, §2 (AMD).

§104-A. PER DIEM COMPENSATION FOR ACTIVE RETIRED SUPERIOR COURT JUSTICES

Any Active Retired Justice of the Superior Court, who performs judicial service at the direction and assignment of the Chief Justice of the Supreme Judicial Court, is compensated for those services at the rate of \$300 per day or \$175 per 1/2 day, provided that the total per diem compensation and retirement pension received by an Active Retired Justice of the Superior Court in any calendar year does not exceed the annual salary of a Justice of the Superior Court. [2001, c. 439, Pt. DDD, §1 (AMD).]

SECTION HISTORY

1979, c. 692, §2 (NEW). 1983, c. 416, §2 (AMD). 1989, c. 501, §§O14,22 (AMD). 1989, c. 596, §C8 (AMD). 1991, c. 824, §§B13,14 (AFF). 1997, c. 643, §M6 (AMD). 2001, c. 439, §DDD1 (AMD).

§105. SUPERIOR COURT; CIVIL JURISDICTION

1. Jurisdiction. Except as provided in subsection 2, the Superior Court has and shall exercise exclusive jurisdiction and has and shall exercise all of the powers, duties and authority necessary for exercising the jurisdiction in any and all matters that were, prior to January 1, 1930, within the jurisdiction of the Supreme Judicial Court or any of the Superior Courts, whether cognizable at law or in equity.

[1999, c. 731, Pt. ZZZ, §3 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

2. Exceptions to Superior Court's exclusive jurisdiction. The Superior Court does not have exclusive jurisdiction over matters for which:

A. Concurrent or exclusive jurisdiction is vested in the District Court; or [1999, c. 731, Pt. ZZZ, §3 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

B. Concurrent jurisdiction is vested in the Supreme Judicial Court as provided in Title 14, section 5301. [1999, c. 731, Pt. ZZZ, §3 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

[1999, c. 731, Pt. ZZZ, §3 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

3. Appellate jurisdiction. The Superior Court shall hear appeals as follows:

A. Administrative appeals brought pursuant to Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rules 80B and 80C; and [2005, c. 48, §1 (AMD) .]

B. Appeals from the District Court:

(1) Brought pursuant to Title 14, section 6008;

(2) Brought pursuant to Title 14, chapter 738;

(3) As provided in Title 15, section 1; and

(4) Brought pursuant to Title 34-B, section 3864, subsection 11. [2005, c. 48, §1 (AMD) .]

[2005, c. 48, §1 (AMD) .]

4. No jurisdiction, powers, duties or authority of the Law Court. The Superior Court does not have and may not exercise the jurisdiction, powers, duties and authority of the Supreme Judicial Court sitting as the Law Court.

[1999, c. 731, Pt. ZZZ, §3 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

SECTION HISTORY

1975, c. 430, §1 (AMD). 1979, c. 540, §3 (AMD). 1999, c. 731, §ZZZ42 (AFF). 1999, c. 731, §ZZZ3 (RPR). 2005, c. 48, §1 (AMD).

§106. CONFERENCES

The Chief Justice of the Supreme Judicial Court may from time to time call together the several Justices of the Superior Court at such place as he may appoint for conference as to the conduct and dispatch of judicial business and interchange of views in matters of practice in said court. In addition to their salaries and expenses in holding the several terms of court to which they are assigned, the several justices shall be entitled to their actual cash disbursements in attending such conferences.

§107. CLERK

For each county, the Chief Justice shall appoint a person to serve as the clerk of the Superior Court in that county. A clerk of a District Court may also serve as the clerk of a Superior Court. Any deputy clerk, if the deputy's appointment has been temporarily approved by a Justice of the Superior Court then sitting in that county or permanently approved by the Chief Justice of the Superior Court, may, whenever directed by the clerk, act as clerk of the Superior Court at any session in that county. [1995, c. 560, Pt. I, §4 (AMD) .]

The clerk of the Superior Court may sign notices to appear in court for hearings on nonpayment of fines, counsel fees or restitution. [1997, c. 135, §1 (NEW) .]

SECTION HISTORY

1995, c. 560, §I4 (AMD). 1997, c. 135, §1 (AMD).

§107-A. AUTHORITY OF CLERKS TO ISSUE PROCESS FOR ARREST OF PERSONS

The Chief Justice of the Superior Court may authorize any clerk or deputy clerk of the Superior Court to issue process for the arrest of persons charged with crimes if the Chief Justice of the Superior Court is satisfied that the clerk or deputy clerk has the necessary training and learning to perform that function. When authorized by the Chief Justice of the Superior Court to issue process and acting in that capacity, the clerk or

deputy clerk is considered a justice of the peace with the same authority as a District Court clerk or deputy clerk described in section 161. A clerk or deputy clerk who is authorized to issue process serves in that capacity at the pleasure of the Chief Justice of the Superior Court. [2005, c. 540, §1 (NEW).]

SECTION HISTORY

2005, c. 540, §1 (NEW).

§108. SEAL; FORM OF SUMMONSES, WRITS AND PROCESSES; FACSIMILE SIGNATURE OF CLERK

The Justices of the Superior Court shall establish a seal for said court. All summonses, writs and other processes of said court shall be in the name of the State under the seal of said court. They shall be signed by any one of the clerks and obeyed and executed throughout the State. The clerk in any county may sign and issue any such summons, writ or other process for an action in the Superior Court in any other county in which the action might legally be brought. A facsimile of the signature of the clerks of the Superior Courts imprinted by or at their direction upon any writ, summons, subpoena, order or notice or order of attachment, except executions and criminal process, shall have the same validity as their written signature.

§109. WRITS WHEN RETURNABLE

(REPEALED)

SECTION HISTORY

1965, c. 513, §4 (RP).

§110. TRIAL TERMS

The Chief Justice of the Superior Court shall establish the times and places for holding court, shall schedule the business to be conducted and shall specify when the grand jury shall be summoned. A grand jury may be specially summoned at any time by order of a Justice of the Superior Court. [1983, c. 688, §3 (AMD).]

SECTION HISTORY

1965, c. 277, (AMD). 1965, c. 279, §§1-6 (AMD). 1965, c. 324, (AMD). 1965, c. 366, (AMD). 1967, c. 96, (AMD). 1967, c. 168, (AMD). 1969, c. 57, (RPR). 1975, c. 408, §9 (RPR). 1983, c. 530, §1 (AMD). 1983, c. 688, §3 (AMD).

§111. SIMULTANEOUS AND SPECIAL SESSIONS

Two or more simultaneous sessions of the Superior Court may be held in the same county, or special sessions thereof may be held in any county, whenever the Chief Justice of the Superior Court determines that public convenience so requires. The business may be so divided as to secure its speedy and convenient disposal. Special sessions of the Superior Court for the transaction of civil or criminal business or both may be held in any county at any time whenever the Chief Justice of the Superior Court determines that public convenience and necessity so require. [1983, c. 688, §4 (AMD).]

SECTION HISTORY

1983, c. 688, §4 (AMD).

§112. SHERIFF OR DEPUTY TO ATTEND COURT

The sheriff of each of the counties, when requested, shall attend the Superior Court thereof or the Supreme Judicial Court when either court is in session in that county or the sheriff shall specially designate a deputy, approved by the court, so to attend. When court is adjourned, actions brought shall be entered by the clerk and they, with all actions on the docket, shall be continued to the next court day. [1989, c. 722, §2 (AMD).]

SECTION HISTORY

1977, c. 114, §2 (RPR). 1989, c. 722, §2 (AMD).

§113. MESSENGER OF CUMBERLAND COUNTY

(REPEALED)

SECTION HISTORY

1965, c. 325, (AMD). 1967, c. 414, §2 (AMD). 1969, c. 441, §2 (AMD). 1971, c. 390, §1 (AMD). 1973, c. 540, §1 (AMD). 1975, c. 383, §3 (RP). 1975, c. 408, §10 (RP).

§114. AUTHORITY OF COURT

The Superior Court may administer all necessary oaths, render judgment and issue execution, punish for contempt and compel attendance; and the provisions of law relative to the jurisdiction of the Supreme Judicial Court in each of said counties over parties, the arrest of persons, attachment of property, the time and mode of service of precepts, proceedings in court, the taxation of costs, the rendition of judgments, the issuing, service and return of executions and all other subjects apply to the Superior Court in all respects, except so far as they are modified by law, and the Superior Court is clothed with all the powers necessary for the performance of all its duties. [1975, c. 408, §11 (AMD).]

SECTION HISTORY

1975, c. 408, §11 (AMD).

§115. PLACE FOR HOLDING COURT; SUITABLE QUARTERS

In each county, the place for holding court is located in a building designated by the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee, who, with the advice and approval of the Bureau of General Services, is empowered to negotiate, on behalf of the State, the leases, contracts and other arrangements the Chief Justice considers necessary, within the limits of appropriations and other funds available to the Supreme Judicial, Superior and District Courts, to provide suitable quarters, adequately furnished and equipped, for the Supreme Judicial, Superior or District Court in each county. The county commissioners in each county shall continue to provide for the use of the Supreme Judicial, Superior and District Courts such quarters, facilities, furnishings and equipment in existing county buildings as were in use by the Supreme Judicial and Superior Courts on January 1, 1976, without charge. The county commissioners are not required to provide without charge those quarters, facilities, furnishings and equipment in existing county buildings that were in use by the District Courts and were subject to a charge prior to January 1, 1976. [2009, c. 1, §4 (COR).]

The facilities of the courts in each county, when court is not in session, must be available for other purposes. Arrangements for such use must be made by the Chief Justice or the Chief Justice's designee. [2009, c. 1, Pt. J, §1 (AMD).]

If the Chief Justice or the Chief Justice's designee is unable to negotiate the leases, contracts and other arrangements as provided in this section, the Chief Justice may, with the advice and approval of the Bureau of General Services, negotiate on behalf of the State the leases, contracts and other arrangements the Chief

Justice considers necessary, within the limits of the budget and funds available to such court, to provide suitable quarters, adequately furnished and equipped for the Supreme Judicial, Superior or District Court in privately owned buildings. [2009, c. 1, Pt. J, §1 (AMD).]

SECTION HISTORY

1975, c. 383, §4 (NEW). 1975, c. 408, §12 (NEW). 1975, c. 735, §4 (AMD). 1975, c. 735, §3 (RP). 1979, c. 6, (AMD). 1981, c. 647, §1 (AMD). RR 2009, c. 1, §4 (COR). 2009, c. 1, Pt. J, §1 (AMD).

§115-A. CLOSURE OF SUPERIOR COURTS

A Superior Court location, as authorized under the provisions of this chapter, may not be closed unless approved by an act of the Legislature. [1993, c. 675, Pt. J, §2 (NEW).]

SECTION HISTORY

1993, c. 707, §J2 (NEW).

§116. FUNDS OF COURT

All revenue received by the Supreme Judicial or Superior Court, whether directly or pursuant to an agreement entered into with the Department of Administrative and Financial Services, Bureau of Revenue Services, from fines, forfeitures, penalties, fees and costs accrues to the State, except as otherwise provided under section 1057; Title 7, section 3910-A; Title 12, sections 3055 and 4508; Title 17, section 1015; Title 23, section 1653; Title 29-A, section 2602; former Title 34-A, section 1210-A, subsection 9; and Title 34-A, section 1210-B, subsection 6. [2007, c. 377, §1 (AMD); 2007, c. 377, §17 (AFF).]

Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost effective to do so. Interest accrued in such an account is the property of and accrues to the State. The forfeiture and setoff of bail is as otherwise provided by law. [1991, c. 132, §1 (AMD).]

SECTION HISTORY

1975, c. 383, §4 (NEW). 1975, c. 408, §12 (NEW). 1975, c. 735, §3 (RP). 1987, c. 339, §1 (AMD). 1989, c. 501, Pt. P, §1 (AMD). 1991, c. 132, §1 (AMD). 1995, c. 65, Pt. A, §1 (AMD). 1995, c. 65, Pt. A, §§153,C15 (AFF). 1997, c. 24, Pt. II, §5 (AMD). 1999, c. 357, §1 (AMD). 2001, c. 617, §1 (AMD). 2001, c. 698, §1 (AMD). 2001, c. 698, §7 (AFF). 2003, c. 20, Pt. R, §1 (AMD). 2003, c. 20, Pt. R, §10 (AFF). 2007, c. 377, §1 (AMD). 2007, c. 377, §17 (AFF).

§117. OTHER EXPENSES OF THE COURT

Within the limits of the funds and appropriations available to the Superior and Supreme Judicial Courts, the Chief Justice of the Supreme Judicial Court or his designee may authorize the expenditure of funds for such other expenses and capital improvements as are reasonably necessary for the efficient operation of the Superior and Supreme Judicial Courts. [1975, c. 735, §5 (AMD).]

SECTION HISTORY

1975, c. 383, §4 (NEW). 1975, c. 408, §12 (NEW). 1975, c. 735, §5 (AMD). 1975, c. 735, §3 (RP).

§118. SUPPORT FROM COUNTIES

(REPEALED)

SECTION HISTORY

1975, c. 383, §4 (NEW). 1987, c. 876, §§1,10 (RP).

§119. MEDIA COVERAGE OF JUDICIAL PROCEEDINGS **(REPEALED)**

SECTION HISTORY

1985, c. 515, §1 (NEW). MRSA T. 4, §119 (RP).

§120. JUSTICE OF THE SUPERIOR COURT TO SIT IN DISTRICT COURT

The Chief Justice of the Supreme Judicial Court may assign a Justice of the Superior Court who had been serving as a Judge of the District Court and who has been nominated and confirmed as a Justice of the Superior Court to sit in the District Court in order to finish any cases which he had presided over as a Judge of the District Court and which remain unresolved after his confirmation. [1987, c. 769, Pt. B, §2 (RPR).]

When so assigned, the justice has the same authority and jurisdiction in the District Court as a regular Judge of the District Court. The assigned justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court may hear and issue. [1987, c. 769, Pt. B, §2 (RPR).]

The order of the Chief Justice of the Supreme Judicial Court directing a Justice of the Superior Court to sit in the District Court shall be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by the assigned justice. [1989, c. 502, Pt. A, §8 (AMD).]

SECTION HISTORY

1987, c. 577, (NEW). 1987, c. 769, §B2 (RPR). 1989, c. 502, §A8 (AMD).

§121. JUSTICE OR ACTIVE RETIRED JUSTICE OF SUPERIOR COURT ASSIGNED TO SIT IN DISTRICT COURT

A Justice or an Active Retired Justice of the Superior Court may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the District Court and when so directed the justice has authority and jurisdiction in the District Court as if the justice were a regular judge of that court; and whenever the Chief Justice of the Supreme Judicial Court so directs, the justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court is authorized to hear and issue. [1999, c. 547, §4 (AMD); 1999, c. 547, §80 (AFF).]

The order of the Chief Justice of the Supreme Judicial Court directing a Justice or an Active Retired Justice of the Superior Court to sit in the District Court must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that justice. [1999, c. 547, §4 (AMD); 1999, c. 547, §80 (AFF).]

SECTION HISTORY

1989, c. 891, §A1 (NEW). 1999, c. 547, §B4 (AMD). 1999, c. 547, §B80 (AFF).

Chapter 5: DISTRICT COURT

§151. ESTABLISHMENT; COURT OF RECORD; SEAL

A District Court for the State of Maine, as heretofore established, shall be a court of record and the Chief Judge shall establish a seal.

§152. DISTRICT COURT; CIVIL JURISDICTION

The District Court has jurisdiction in the following civil matters: [1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

1. Jurisdiction exercised by trial justices and municipal courts. The civil jurisdiction exercised by all trial justices and municipal courts in the State on September 16, 1961;

[1983, c. 796, §1 (RPR) .]

2. Civil actions for money damages. Original jurisdiction, concurrent with that of the Superior Court, of all civil actions when no equitable relief is demanded, except those actions for which exclusive jurisdiction is vested in the Superior Court by statute;

[1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

3. Civil actions to enforce liens. Original jurisdiction, concurrent with the Superior Court, of all civil actions to enforce liens under Title 10, chapter 603 and under Title 35-A, section 706, and the court shall determine the amount pursuant to Title 10, section 3258;

[1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

[2013, c. 21, §1 (RPR) .]

5. Other actions. Original jurisdiction, concurrent with that of the Superior Court, of the following types of actions, and in these actions the District Court may grant equitable relief:

A. [1999, c. 731, Pt. ZZZ, §42 (AFF); 1999, c. 731, Pt. ZZZ, §4 (RP) .]

B. Actions to quiet title to real estate under Title 14, sections 6651 to 6658; [1983, c. 796, §1 (RPR) .]

C. Actions to quiet title to real estate under Title 36, section 946; [1983, c. 796, §1 (RPR) .]

D. Actions for breach of implied warranty and covenant of habitability under Title 14, section 6021; [1983, c. 796, §1 (RPR) .]

E. Actions to foreclose mortgages under Title 14, chapter 713, subchapter VI; [1985, c. 293, §1 (AMD) .]

F. Actions for restitution under Title 5, section 213; [1989, c. 392, §1 (AMD) .]

G. Actions for illegal evictions under Title 14, section 6014; [1989, c. 392, §1 (AMD) .]

H. Actions for the foreclosure of mortgages of real and personal property and for redemption of estates mortgaged; [1989, c. 392, §1 (NEW) .]

I. Actions to compel the specific performance of written contracts and to cancel and compel the discharge of written contracts, whether under seal or otherwise, when full performance or payment has been made to the contracting party; [1989, c. 392, §1 (NEW).]

J. Actions for relief in cases of fraud, duress, unjust enrichment, trust, accident or mistake; [1989, c. 392, §1 (NEW).]

K. Actions concerning nuisance and waste; [1989, c. 392, §1 (NEW).]

L. Actions concerning partnership, and between partners or part owners of vessels and of other real and personal property to adjust all matters of the partnership and between the part owners, compel contribution, make final decrees and enforce their decrees by proper process in cases where all interested persons within the jurisdiction of the court are made parties; [1989, c. 392, §1 (NEW).]

M. [1999, c. 731, Pt. ZZZ, §42 (AFF); 1999, c. 731, Pt. ZZZ, §4 (RP).]

N. Civil actions for redelivery of goods or chattels taken or detained from the owner and secreted or withheld so that the goods or chattels cannot be replevied, and in civil actions by creditors to reach and apply in payment of a debt any property, right, title or interest, legal or equitable, of a debtor or debtors, which cannot be attached on writ or taken on execution in a civil action, and any property or interest conveyed in fraud of creditors; [1989, c. 392, §1 (NEW).]

O. Actions in which the pleading demands a judgment:

(1) To exclude a person from a vested or contingent interest in or lien upon specific property within the State;

(2) That a vested or contingent interest in or lien upon specific property within the State be enforced;

(2-A) That real property be partitioned by sale; or

(3) Otherwise affecting title to any real property; [1999, c. 547, Pt. A, §1 (AMD).]

P. Actions to compel the compliance with court orders including the right to appoint persons to sign instruments as provided for in the Maine Rules of Civil Procedure; [1989, c. 392, §1 (NEW); 1989, c. 919, §§1, 18 (AMD).]

Q. Actions in which the equitable relief is sought through an equitable defense, a counterclaim, a cross-claim or other responsive pleading or reply permitted by the Maine Rules of Civil Procedure; [2011, c. 80, §1 (AMD).]

R. Actions to enforce access to health care under Title 22, section 1715; and [2011, c. 80, §2 (AMD).]

S. Actions under the Uniform Arbitration Act, Title 14, chapter 706. [2011, c. 80, §3 (NEW).]

Nothing in this subsection may be construed to affect the right of any party to remove an action to the Superior Court in accordance with the Maine Rules of Civil Procedure;

[2011, c. 80, §§1-3 (AMD).]

5-A. Actions involving minors under Title 18-A. Exclusive jurisdiction of actions for guardianship, adoption, change of name or other matters involving custody or other parental rights brought under Title 18-A if proceedings involving custody or other parental rights with respect to a minor child, including but not limited to adoption, divorce, parental rights and responsibilities, grandparents' rights, protective custody, change of name, guardianship, paternity, termination of parental rights and protection from abuse or harassment, are pending in the District Court.

A. The District Court presiding over any matter involving custody or other parental rights with respect to a minor child shall require all parties to disclose whether they have knowledge of:

(1) Any interim or final order then in effect concerning custody or other parental rights with respect to the minor child;

(2) Any proceeding involving custody or other parental rights with respect to the minor child currently filed or pending before any court of this State or another state, including before a probate court in this State; or

(3) Any other related action currently filed or pending before any court of this State or another state, including before a probate court in this State. [2015, c. 460, §1 (NEW).]

B. If the District Court presiding over any matter involving custody or other parental rights with respect to a minor child becomes aware that a proceeding for guardianship, adoption or change of name or another matter involving custody or other parental rights with respect to the minor child is pending in a probate court in this State, the District Court shall notify the Probate Court and take appropriate action to facilitate a transfer of the matter from the Probate Court; [2015, c. 460, §1 (NEW).]

[2015, c. 460, §1 (NEW).]

6. Environmental laws.

[1989, c. 878, Pt. A, §6 (RP); 1993, c. 349, §3 (AMD).]

6-A. Environmental laws. Original jurisdiction, concurrent with that of the Superior Court, to grant equitable relief and impose penalties in proceedings involving alleged violations of a local environmental ordinance or regulation or a state environmental law or rule, including, but not limited to, the following:

A. The laws pertaining to the Maine Land Use Planning Commission, Title 12, chapter 206-A; [1989, c. 878, Pt. A, §7 (NEW); 2011, c. 682, §38 (REV).]

B. The minimum lot size law, Title 12, sections 4807 to 4807-G; [1989, c. 878, Pt. A, §7 (NEW).]

C. Shoreland zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 38, sections 435 to 446; [2011, c. 120, §1 (AMD).]

D. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42; [1989, c. 878, Pt. A, §7 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

E. Laws pertaining to public water supplies, Title 22, chapter 601, subchapter IV; [1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

F. Local ordinances enacted under Title 22, section 2642, and in accordance with Title 30-A, section 3001; [1989, c. 878, Pt. A, §7 (NEW).]

G. Local land use ordinances enacted under Title 30-A, section 3001; [1989, c. 878, Pt. A, §7 (NEW).]

H. Local building codes adopted pursuant to Title 30-A, section 3001, and in accordance with Title 30-A, chapter 185, subchapter I; [1989, c. 878, Pt. A, §7 (NEW).]

I. Automobile junkyards, Title 30-A, chapter 183, subchapter I; [1989, c. 878, Pt. A, §7 (NEW).]

J. Regulation and inspection of plumbing, Title 30-A, chapter 185, subchapter III; [1989, c. 878, Pt. A, §7 (NEW).]

K. Malfunctioning domestic waste water disposal units, Title 30-A, section 3428; [1989, c. 878, Pt. A, §7 (NEW).]

L. The subdivision law, Title 30-A, chapter 187, subchapter IV; local subdivision ordinances enacted under Title 30-A, section 3001; and subdivision regulations adopted under Title 30-A, section 4403; [1989, c. 878, Pt. A, §7 (NEW).]

M. Local zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 30-A, section 4352; [1989, c. 878, Pt. A, §7 (NEW).]

N. All laws administered by the Department of Environmental Protection, Title 38, chapters 2 to 16; [1989, c. 878, Pt. A, §7 (NEW).]

O. Local ordinances regarding air pollution control enacted pursuant to Title 38, section 597; [2005, c. 240, §1 (AMD).]

P. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1; local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; and [2005, c. 240, §2 (AMD).]

Q. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; [2005, c. 240, §3 (NEW).]

[2011, c. 120, §1 (AMD); 2011, c. 682, §38 (REV) .]

7. Air quality laws.

[1989, c. 311, §2 (RP) .]

8. Consent to minor's abortion. Original jurisdiction, concurrent with that of the Probate Court, to grant equitable relief in proceedings brought under Title 22, section 1597-A;

[1999, c. 547, Pt. B, §5 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

9. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29-A; Title 32, chapters 2-B, 114 and 135; and Title 35-A, section 3132, exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General to revoke or suspend licenses issued by the agency. The District Court has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The District Court has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, a licensing agency may not reinstate or otherwise affect a license suspended, revoked or modified by the District Court pursuant to a complaint filed by the Attorney General without the approval of the Attorney General;

[2009, c. 112, Pt. B, §1 (AMD) .]

10. Appellate jurisdiction.

[2009, c. 112, Pt. B, §2 (RP) .]

11. Actions for divorce, separation or annulment. Original jurisdiction, not concurrent with the Superior Court, of actions for divorce, annulment of marriage or judicial separation and proceedings under Title 19-A, except as otherwise specifically provided.

Actions for divorce, annulment or separation pending in the Superior Court may be transferred, upon agreement of the parties, from the Superior Court to the District Court in accordance with rules adopted by the Supreme Judicial Court. An action so transferred remains in the District Court, which has exclusive jurisdiction thereafter, subject to the rights of appeal to the Law Court as to matters of law;

[1999, c. 731, Pt. ZZZ, §4 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

12. Property matters between spouses. Original jurisdiction, not concurrent with the Superior Court, of actions to hear and determine property matters between spouses as provided in Title 19-A, section 806 and to make all necessary orders and decrees relating to these matters, to issue all necessary process to enforce the orders and decrees and to cause all the orders and decrees to be enforced. This subsection does not apply to or affect actions initiated in the Superior Court before the effective date of this subsection;

[1999, c. 731, Pt. ZZZ, §4 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

13. Desertion and nonsupport. Jurisdiction over complaints for desertion and nonsupport or nonsupport of dependents in the district where either the spouse, the dependent or the respondent resides;

[2007, c. 670, §1 (AMD) .]

14. Civil violations. Jurisdiction over all civil violations, as provided in Title 17-A, section 9, and traffic infractions; and

[2007, c. 670, §2 (AMD) .]

15. Restoration of right to possess firearms. Exclusive jurisdiction to conduct de novo review of a determination by the Commissioner of Public Safety pursuant to Title 15, section 393, subsection 4-A.

[2007, c. 670, §3 (NEW) .]

SECTION HISTORY

1965, c. 236, (AMD). 1969, c. 587, (AMD). 1971, c. 38, (AMD). 1971, c. 117, §1 (AMD). 1971, c. 175, (AMD). 1971, c. 544, §6 (AMD). 1975, c. 54, §1 (AMD). 1975, c. 430, §§2,3 (AMD). 1975, c. 552, §1 (AMD). 1975, c. 770, §11 (AMD). 1977, c. 401, §1 (AMD). 1979, c. 127, §11 (AMD). 1979, c. 540, §§4,5 (AMD). 1979, c. 663, §7 (AMD). 1979, c. 700, §1 (AMD). 1981, c. 470, §A4 (AMD). 1981, c. 585, §1 (AMD). 1981, c. 645, §1 (AMD). 1983, c. 29, §1 (AMD). 1983, c. 275, (AMD). 1983, c. 447, §1 (RPR). 1983, c. 583, §1 (AMD). 1983, c. 796, §1 (RPR). 1985, c. 162, §1 (AMD). 1985, c. 293, §§1,2 (AMD). 1985, c. 563, §1 (AMD). 1985, c. 746, §2 (AMD). 1987, c. 192, §1 (AMD). 1987, c. 419, §1 (AMD). 1987, c. 737, §§C2,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C1,C8,C10 (AMD). 1989, c. 287, §§1,2 (AMD). 1989, c. 311, §§1,2 (AMD). 1989, c. 392, §§1,2 (AMD). 1989, c. 415, §1 (AMD). 1989, c. 573, §1 (AMD). 1989, c. 878, §§A6,7 (AMD). 1989, c. 919, §§1,2,18 (AMD). 1991, c. 377, §1 (AMD). 1993, c. 349, §3 (AMD). 1995, c. 65, §A2 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 694, §§D2,3 (AMD). 1995, c. 694, §E2 (AFF). 1999, c. 547, §§A1,B5,6 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 731, §ZZZ4 (AMD). 1999, c. 731, §ZZZ42 (AFF). 1999, c. 778, §1 (AMD). RR 2001, c. 2, §A2 (COR). 2001, c. 229, §1 (AMD). 2001, c. 471, §A1 (AMD). 2001, c. 471, §A2 (AFF). 2003, c. 689, §B6 (REV). 2005, c. 65, §C1 (AMD). 2005, c. 240, §§1-3 (AMD). 2007, c. 670, §§1-3 (AMD). 2009, c. 112, Pt. B, §§1, 2 (AMD). 2011, c. 80, §§1-3 (AMD). 2011, c. 120, §1 (AMD). 2011, c. 542, Pt. A, §1 (AMD). 2011, c. 614, §1 (AMD). 2011, c. 682, §38 (REV). 2013, c. 21, §1 (AMD). 2015, c. 460, §1 (AMD).

§153. JUDICIAL DIVISIONS

The State is divided into judicial divisions, named and defined as follows, and with places for holding court in those divisions as follows: [2013, c. 159, §2 (AMD) .]

1. Northern Androscoggin.

[2003, c. 673, Pt. JJJ, §2 (RP) .]

2. Androscoggin. Androscoggin consists of all municipalities in Androscoggin County. The District Court for Androscoggin must be held at Lewiston or Auburn, exact site to be determined by the Chief Judge.

[2003, c. 673, Pt. JJJ, §3 (AMD) .]

3. Western Aroostook. Western Aroostook consists of the municipalities and unorganized territory known as Hamlin Plt., Cyr Plt., T17 R3, T17 R4, T16 R5, T15 R6, Winterville Plt., T15 R8, T15 R9, T14 R10, T14 R11, T14 R12, T14 R13, T14 R14, T14 R15, T14 R16, and all municipalities and unorganized territory in Aroostook County lying to the west and north of these. The District Court for Western Aroostook must be held at Madawaska and Fort Kent. The Chief Judge shall determine the level of service at each location.

[1995, c. 330, §1 (AMD) .]

4. Eastern Aroostook. Eastern Aroostook includes the municipalities and unorganized territory known as Limestone, Caribou, Washburn, Wade, T13 R5, and all municipalities and unorganized territory in Aroostook County lying to the north of these up to the boundary of the division of Western Aroostook. The District Court for Eastern Aroostook shall be held at Caribou.

5. Central Aroostook. Central Aroostook includes the municipalities and unorganized territory known as Blaine, TD R2, T9 R3, T9 R4, T9 R5, Oxbow, T9 R7, T9 R8, T10 R8, T11 R9, T11 R10, T11 R11, T11 R12, T11 R13, T11 R14, T11 R15, T11 R16, T11 R17, and all municipalities and unorganized territory, including the City of Presque Isle in Aroostook County lying to the north of these up to the boundary of the division of Western Aroostook and the boundary of the division of Eastern Aroostook. The District Court for Central Aroostook shall be held at Presque Isle.

6. Southern Aroostook. Southern Aroostook consists of all municipalities and unorganized territory in Aroostook County not included within the divisions of Western Aroostook, Eastern Aroostook and Central Aroostook. The District Court for Southern Aroostook shall be held at Houlton.

7. Eastern Cumberland.

[1989, c. 891, Pt. A, §3 (RP) .]

8. Southern Cumberland. Southern Cumberland consists of the municipalities of Pownal, North Yarmouth, Yarmouth, Cumberland, Falmouth, Cape Elizabeth, Scarborough, Portland, South Portland, Westbrook, Gorham, Gray, New Gloucester and Windham. The District Court for Southern Cumberland shall be held at Portland.

[1989, c. 184, (RPR) .]

9. Northern Cumberland. Northern Cumberland consists of all municipalities in the County of Cumberland not included within the divisions of Southern Cumberland and Bath-Brunswick, and consists of the municipalities of Brownfield, Denmark, Hiram, Fryeburg, Lovell, Sweden, Stow and Porter in the County of Oxford. The District Court for Northern Cumberland must be held at Bridgton.

[2003, c. 510, Pt. B, §1 (AMD) .]

10. Franklin. Franklin consists of the entire County of Franklin. The District Court of Franklin shall be held at Farmington.

[1973, c. 35, (AMD) .]

11. Hancock. Hancock consists of the entire County of Hancock. The District Court for Hancock must be held at Ellsworth.

[2005, c. 397, Pt. C, §5 (AMD); 2005, c. 397, Pt. C, §8 (AFF) .]

12. Southern Hancock.

[2005, c. 397, Pt. C, §8 (AFF); 2005, c. 397, Pt. C, §6 (RP) .]

13. Northern Kennebec. Northern Kennebec consists of the municipalities of Albion, Belgrade, Mount Vernon, Sidney, Vassalboro, Winslow and all municipalities in Kennebec County lying to the north of these. The District Court for Northern Kennebec shall be held at Waterville.

[1987, c. 21, (AMD) .]

14. Southern Kennebec. Southern Kennebec consists of all municipalities in Kennebec County not included within the division of Northern Kennebec. The District Court for Southern Kennebec shall be held at Augusta.

15. Knox. Knox consists of the entire County of Knox. The District Court for Knox shall be held at Rockland.

16. Lincoln. Lincoln consists of the entire County of Lincoln. The District Court for Lincoln shall be held at Wiscasset.

17. Northern Oxford. Northern Oxford consists of Gilead, Bethel, Milton Plt., Peru, Canton and all municipalities and unorganized territory in Oxford County lying to the north of these. The District Court for Northern Oxford shall be held at Rumford.

18. Southern Oxford. Southern Oxford consists of all municipalities and unorganized territory in Oxford County not included in the division of Northern Oxford, except the municipalities of Brownfield, Denmark, Hiram, Fryeburg, Lovell, Sweden, Stow and Porter. The District Court for Southern Oxford shall be held at Paris.

[1969, c. 590, §3 (AMD) .]

19. Northern Penobscot.

[2013, c. 159, §3 (RP) .]

19-A. Northern and Central Penobscot. Northern and Central Penobscot consists of the municipalities and unorganized territory of Hopkins Academy Grant Township, Long A Township, Medway, TA R7 WELS, Burlington, Edinburg, Lakeville, Lagrange, Lowell, Passadumkeag, Twombly, Pukakon Township and all municipalities and unorganized territory in Penobscot County lying to the north of these. The District Court for Northern and Central Penobscot must be held at Millinocket and Lincoln. The Chief Judge shall determine the level of service at each location.

[2013, c. 159, §4 (NEW) .]

20. Central Penobscot.

[2013, c. 159, §5 (RP) .]

21. Southern Penobscot. Southern Penobscot consists of the municipalities of Alton, Glenburn, Hampden, Hermon, Old Town and all municipalities and unorganized territory lying east of these and south of the division of Central Penobscot. The District Court for Southern Penobscot shall be held at Bangor.

22. Western Penobscot. Western Penobscot consists of all municipalities in Penobscot County not included within the divisions of Northern, Central or Southern Penobscot. The District Court for Western Penobscot shall be held at Newport.

23. Piscataquis. Piscataquis consists of the entire County of Piscataquis. The District Court for Piscataquis shall be held at Dover-Foxcroft.

24. Bath-Brunswick. Bath-Brunswick consists of the entire County of Sagadahoc and the municipalities of Brunswick, Freeport and Harpswell in Cumberland County. The District Court for Bath-Brunswick shall be held at Bath, West Bath or Brunswick, the exact site to be determined by the Chief Judge.

[1989, c. 891, Pt. A, §4 (AMD) .]

25. Somerset. Somerset consists of the entire County of Somerset. The District Court for Somerset shall be held at Skowhegan.

26. Waldo. Waldo consists of the entire County of Waldo. The District Court for Waldo shall be held at Belfast.

27. Northern Washington. Northern Washington consists of the municipalities and unorganized territory known as Charlotte, Cooper, Crawford, Pembroke, Perry, Eastport, T26 E.D., T36 M.D., T37 M.D. and all municipalities and unorganized territory in Washington County lying to the north of these. The District Court for Northern Washington shall be held at Calais.

28. Southern Washington. Southern Washington consists of all municipalities and unorganized territory in the County of Washington not included within the division of Northern Washington. The District Court for Southern Washington shall be held at Machias.

29. Eastern York. Eastern York consists of the municipalities of Hollis, Kennebunk, Lyman and all municipalities in York County lying to the east of these. The District Court for Eastern York shall be held at Biddeford or Saco, exact site to be determined by the Chief Judge with the approval of the Chief Justice of the Supreme Judicial Court.

[1989, c. 98, §1 (AMD) .]

30. Southern York. Southern York consists of the municipalities of Eliot, Kittery, Ogunquit, South Berwick, Wells and York. The District Court for Southern York shall be held at York.

[1989, c. 98, §1 (AMD) .]

31. Western York. Western York consists of all municipalities in York County not included within the division of Eastern York and Southern York. The District Court for Western York shall be held at Sanford.

SECTION HISTORY

1965, c. 228, §1 (AMD). 1969, c. 458, (AMD). 1969, c. 501, §1 (AMD). 1969, c. 559, (AMD). 1969, c. 590, §3 (AMD). 1971, c. 622, §§4-A (AMD). 1973, c. 35, (AMD). 1979, c. 127, §12 (AMD). 1979, c. 663, §§8,8A (AMD). 1981, c. 201, (AMD). 1983, c. 23, (AMD). 1983, c. 654,

§1 (AMD). 1987, c. 21, (AMD). 1987, c. 133, §1 (AMD). 1989, c. 98, §§1,2 (AMD). 1989, c. 184, (AMD). 1989, c. 891, §§A2-4 (AMD). 1991, c. 9, §E1 (AMD). 1991, c. 121, §B1 (AMD). 1991, c. 121, §B18 (AFF). 1993, c. 675, §§B1,2 (AMD). 1995, c. 330, §1 (AMD). 1995, c. 560, §I5 (AMD). 1995, c. 665, §BB1 (AFF). 2003, c. 510, §B1 (AMD). 2003, c. 673, §§JJJ1-3 (AMD). 2005, c. 397, §§C4-6 (AMD). 2005, c. 397, §C8 (AFF). 2013, c. 159, §§2-5 (AMD).

§154. DISTRICTS

The judicial divisions are organized into 13 districts, as follows, with the place for holding court shown in parentheses after the name of each division:

1. First District. The first district consists of the divisions of Eastern Aroostook (Caribou) and Western Aroostook (Madawaska, Fort Kent and Van Buren).

[1965, c. 228, §2 (AMD) .]

2. Second District. The 2nd district consists of the divisions of Central Aroostook (Presque Isle) and Southern Aroostook (Houlton).

3. Third District. The 3rd district consists of the divisions of Southern Penobscot (Bangor) and Western Penobscot (Newport).

[1965, c. 237, §2 (AMD) .]

4. Fourth District. The 4th district consists of the divisions of Northern Washington (Calais) and Southern Washington (Machias).

5. Fifth District. The 5th district consists of the divisions of Hancock (Ellsworth) and Waldo (Belfast).

[2005, c. 397, Pt. C, §7 (AMD); 2005, c. 397, Pt. C, §8 (AFF) .]

6. Sixth District. The 6th district consists of the divisions of Bath-Brunswick (Bath, West Bath or Brunswick), Lincoln (Wiscasset) and Knox (Rockland).

[1989, c. 891, Pt. A, §5 (AMD) .]

7. Seventh District. The 7th district consists of the divisions of Northern Kennebec (Waterville) and Southern Kennebec (Augusta).

[1965, c. 425, §3 (AMD) .]

8. Eighth District. The 8th district consists of the divisions of Androscoggin (Lewiston).

[2003, c. 673, Pt. JJJ, §4 (AMD) .]

9. Ninth District. The 9th district consists of the divisions of Southern Cumberland (Portland) and Northern Cumberland (Bridgton).

[1965, c. 425, §3 (AMD) .]

10. Tenth District. The 10th district consists of the divisions of Eastern York (Biddeford or Saco) as above determined, Western York (Sanford) and Southern York (York).

[1989, c. 98, §3 (AMD) .]

11. Eleventh District. The 11th district consists of the divisions of Northern Oxford (Rumford) and Southern Oxford (South Paris).

[2003, c. 673, Pt. JJJ, §5 (AMD) .]

12. Twelfth District. The 12th district consists of the divisions of Somerset (Skowhegan) and Franklin (Farmington).

[1965, c. 237, §4 (AMD) .]

13. Thirteenth District. The 13th district consists of the divisions of Piscataquis (Dover-Foxcroft), Northern Penobscot (Millinocket) and Central Penobscot (Lincoln).

SECTION HISTORY

1965, c. 228, §2 (AMD). 1965, c. 237, §§2-4 (AMD). 1965, c. 425, §3 (AMD). 1983, c. 654, §§2,3 (AMD). 1987, c. 133, §2 (AMD). 1989, c. 98, §3 (AMD). 1989, c. 891, §A5 (AMD). 2003, c. 673, §§JJJ4,5 (AMD). 2005, c. 397, §C7 (AMD). 2005, c. 397, §C8 (AFF).

§155. VENUE

1. Juvenile proceeding or criminal prosecution. A juvenile proceeding or criminal prosecution, including traffic, shall be brought in the division in which the offense charged took place, but if the proceeding involves 2 or more offenses committed in different divisions, it may be brought in any one of them.

2. Forcible entry and detainer; trustee process; attachment. An action for forcible entry and detainer must be brought in the division in which the property involved is located. Except as otherwise provided in subsection 3-A, an action to recover personal property pursuant to Title 14, section 7071, or for replevin, may be brought either in the division where a plaintiff or defendant resides, where the underlying transaction involving the personal property was made or where any of the personal property is located, or to which the court orders the personal property to be brought or kept pursuant to Title 14, section 7071, subsection 5. An action commenced by trustee process must be brought in accordance with Title 14, chapter 501. An action involving attachment may be brought in the division where the plaintiff resides or where the defendant resides or where the property involved is located.

[2009, c. 245, §1 (AMD) .]

3. Divorce, separation, annulment, support. An action or proceeding for divorce, separation, annulment of marriage or for support may be brought in the division where either the plaintiff or the defendant resides.

[1999, c. 731, Pt. ZZZ, §5 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

3-A. Consumer transactions. Notwithstanding any other provision of law, an action brought against a consumer arising from a consumer credit transaction or a rental-purchase agreement must be filed in accordance with Title 9-A, section 5-113, except that an action brought pursuant to Title 32, section 11013, subsection 3, paragraph N must be brought where provided for in that paragraph.

[2009, c. 245, §2 (NEW) .]

4. Other civil actions. Any other civil action or proceeding shall be brought in the division where any plaintiff or defendant resides, but if all defendants are nonresidents of the State, it may be brought in any division of the plaintiff's choice.

5. Corporation. A corporation shall be deemed a resident of any district in which it maintains a place of business.

6. Brought in any division with consent. Notwithstanding subsections 1 to 5, all parties, with the approval of any district judge, may consent to any action, proceeding or prosecution being brought and determined in any division.

7. Improper venue. If any action or proceeding, civil or criminal, is brought in the wrong division, the court, upon motion or on its own initiative, may transfer it to a proper division. Any objection to improper venue is waived unless asserted by motion to transfer the case made before the commencement of trial or, in the event of default in appearance or answer, before the entry of judgment.

8. Transfer of any case. The court may, upon motion or its own initiative, transfer any case to another division for the convenience of parties or witnesses or in the interest of justice.

SECTION HISTORY

1999, c. 731, §ZZZ5 (AMD). 1999, c. 731, §ZZZ42 (AFF). 2009, c. 245, §§1, 2 (AMD).

§156. RULES

1. Pending new rules. Pending promulgation of new rules as provided in subsection 2:

A. The rules of procedure now in effect for cases and proceedings within the jurisdiction vested by this chapter in the District Court shall apply.

B. Appeals from the District Court shall be heard de novo in the Superior Court.

2. Rules. The Supreme Judicial Court is empowered to make and amend rules of procedure for the District Court and for appeals from the District Court.

§157. JUDGES; APPOINTMENT; SALARY; EXPENSES; FULL-TIME DUTIES

1. Appointment. District Court Judges are appointed as follows.

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, shall appoint to the District Court 39 judges. At least one judge must be appointed from each district who is a resident of a county in which the district lies, except that in District 3 there must be 2 judges appointed who are residents of a county in which the district lies; in District 6 there must be 2 judges appointed who are residents of a county in which the district lies; and in District 9 there must be 2 judges appointed who are residents of a county in which the district lies. Each District Court Judge has a term of office of 7 years.

To be eligible for appointment as a District Judge, a person must be a member of the bar of the State. The term "District Judge" includes the Chief Judge and Deputy Chief Judge. [2015, c. 460, §2 (AMD).]

B. The Chief Justice of the Supreme Judicial Court shall designate one of the judges as Chief Judge. The Chief Judge, with the approval of the Chief Justice of the Supreme Judicial Court, shall designate one of the District Court Judges as Deputy Chief Judge who has all the duties, powers and responsibilities of the Chief Judge when the Chief Judge is unable to perform them because of illness, absence or disability. [1993, c. 675, Pt. B, §4 (AMD).]

[2015, c. 460, §2 (AMD).]

2. Chief Judge; salary. The Chief Judge of the District Court is entitled to receive a salary, for fiscal year 1998-99 and thereafter, of \$94,000, to be paid biweekly.

[1997, c. 643, Pt. M, §7 (AMD) .]

3. Deputy Chief Judge; salary. The Deputy Chief Judge of the District Court is entitled to receive a salary, for fiscal year 1998-99 and thereafter, of \$92,000, to be paid biweekly.

[1997, c. 643, Pt. M, §8 (AMD) .]

4. Associate judge; salary. Each Associate Judge of the District Court shall receive a salary as follows:

A. For fiscal year 1998-99 and thereafter, \$90,000, to be paid biweekly. [1997, c. 643, Pt. M, §9 (RPR) .]

B. [1989, c. 596, Pt. C, §§3, 8 (RP) .]

C. [1989, c. 596, Pt. C, §§3, 8 (RP) .]

D. [1989, c. 596, Pt. C, §§3, 8 (RP) .]

E. [1989, c. 596, Pt. C, §§3, 8 (RP) .]

[1997, c. 643, Pt. M, §9 (AMD) .]

4-A. Cost-of-living adjustment. The salaries of the associate judges shall be adjusted as established in Title 4, section 4, subsection 2-A.

[1989, c. 501, Pt. O, §§16, 22 (NEW) .]

5. Expenses. Each judge must be reimbursed by the State, upon presentation to the State Controller of a detailed statement, for those expenses as established by judicial branch policy, actually and reasonably incurred in attending meetings and sessions of the court. Reimbursement for mileage must be paid at the rate paid state employees under Title 5, section 8.

[2007, c. 539, Pt. JJ, §2 (AMD) .]

6. Full-time duties. A District Court Judge shall devote full time to his judicial duties. During his term of office, he shall not practice law, nor shall he be the partner or associate of any person in the practice of law.

[1983, c. 863, Pt. B, §§7, 45 (RPR) .]

7. Exception. The salary provisions of this section shall not apply to judges who have retired prior to December 1, 1984.

[1983, c. 863, Pt. B, §§7, 45 (RPR) .]

SECTION HISTORY

1965, c. 237, §1 (AMD). 1965, c. 372, (AMD). 1965, c. 513, §5 (AMD). 1967, c. 476, §6 (AMD). 1967, c. 478, (AMD). 1969, c. 67, (AMD). 1969, c. 580, §3 (AMD). 1971, c. 135, (AMD). P&SL 1971, c. 179, §N (AMD). 1971, c. 544, §8 (AMD). P&SL 1973, c. 209, §7 (AMD). 1973, c. 417, §1 (AMD). 1973, c. 509, §6 (RPR). 1973, c. 596, §§1,3 (AMD). 1973, c. 788, §§5,6 (AMD). 1975, c. 259, (AMD). 1975, c. 559, §1 (AMD). 1975, c. 771, §19 (AMD). 1977, c. 429, §1 (AMD). 1977, c. 696, §21 (AMD). 1979, c. 544, §7 (RPR). 1981, c. 486, §3 (AMD). 1981, c. 489, §1 (AMD). 1981, c. 705, §F1 (AMD). 1983, c. 477, Pt. E, Subpt. 1, §3 (AMD). 1983, c. 825, §2 (AMD). 1983, c. 853, §§C10,18 (RPR). 1983, c.

863, §§B7,45 (RPR). 1985, c. 434, §2 (AMD). 1985, c. 506, §B1 (AMD). 1987, c. 349, §H1 (AMD). 1989, c. 501, §§P2,O15,16, 22 (AMD). 1989, c. 596, §§C3,8 (AMD). 1991, c. 824, §§B13,14 (AFF). 1993, c. 675, §§B3,4 (AMD). 1995, c. 665, §X1 (AMD). 1995, c. 665, §X2 (AFF). 1997, c. 10, §1 (AMD). 1997, c. 643, §§M7-9 (AMD). 1999, c. 510, §1 (AMD). 1999, c. 547, §§A2,B7 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 667, §A1 (AMD). 2005, c. 519, §III2 (AMD). 2007, c. 539, Pt. JJ, §2 (AMD). 2015, c. 377, §1 (AMD). 2015, c. 460, §2 (AMD).

§157-A. COMPENSATION UPON RETIREMENT

(REPEALED)

SECTION HISTORY

1973, c. 417, §2 (NEW). 1975, c. 701, §4 (AMD). 1981, c. 488, §§5,6 (AMD). 1983, c. 167, §3 (AMD). 1983, c. 853, §§C11,18 (RP).

§157-B. ACTIVE RETIRED JUDGES; APPOINTMENT

Any Judge of the District Court who has retired from the court under this chapter prior to December 1, 1984, or any Judge of the District Court who retires or terminates that judge's service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Judge of the District Court as provided. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, may appoint any eligible judge to be an Active Retired Judge of the District Court for a term of 7 years, unless sooner removed. That judge may be reappointed for a like term. Any judge so appointed and designated thereupon constitutes a part of the court from which that judge has retired and has the same jurisdiction and is subject to the same restrictions therein as before retirement. An Active Retired Judge of the District Court may serve as an arbitrator and conduct arbitration in accordance with rules that may be adopted by the Supreme Judicial Court, except that nothing in this section requires the Supreme Judicial Court to adopt those rules. An Active Retired Judge of the District Court may chair screening panels in accordance with Title 24, chapter 21, subchapter 4-A. An Active Retired Judge of the District Court may act only in those cases and matters and hold court only at those sessions and times as that judge is directed and assigned by the Chief Judge of the District Court. Any Active Retired Judge of the District Court may be directed by the Chief Judge to hold any session of the District Court in any district and when so directed has authority and jurisdiction therein the same as if that judge were the regular judge of that court and, whenever the Chief Judge of the District Court so orders, may hear all matters and issue all orders, notices, decrees and judgments that any Judge of that District Court is authorized to hear and issue. An Active Retired Judge of the District Court receives reimbursement for expenses actually and reasonably incurred in the performance of that judge's duties. An Active Retired Judge of the District Court may be assigned by the Chief Judge of the District Court to act as a mediator for the foreclosure mediation program in accordance with Title 14, section 6321-A, subsection 7. [2009, c. 402, §3 (AMD).]

SECTION HISTORY

1973, c. 417, §3 (NEW). 1975, c. 771, §20 (AMD). 1979, c. 692, §§3,4 (AMD). 1983, c. 416, §3 (AMD). 1983, c. 853, §§C12,18 (AMD). 2009, c. 136, §2 (AMD). 2009, c. 402, §3 (AMD).

§157-C. JUDGE OR ACTIVE RETIRED JUDGE OF THE DISTRICT COURT TO SIT IN SUPERIOR COURT

A Judge or an Active Retired Judge of the District Court may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the Superior Court in any county and when so directed has authority and jurisdiction therein as if a regular Justice of the Superior Court; and whenever the Chief Justice of the

Supreme Judicial Court so directs, that judge may hear all matters and issue all orders, notices, decrees and judgments that any Justice of the Superior Court is authorized to hear and issue. [1999, c. 547, Pt. B, §4 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

No Judge or Active Retired Judge of the District Court so sitting in the Superior Court may act in any case in which that judge has sat in the District Court nor in which that judge otherwise has an interest. [1999, c. 547, Pt. B, §4 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

The order of the Chief Justice of the Supreme Judicial Court directing a Judge or an Active Retired Judge of the District Court to sit in the Superior Court must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that judge. [1999, c. 547, Pt. B, §4 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

1979, c. 12, §2 (NEW). 1983, c. 112, (AMD). 1999, c. 547, §B8 (AMD). 1999, c. 547, §B80 (AFF).

§157-D. ACTIVE RETIRED JUDGES; COMPENSATION

Any Active Retired Judge of the District Court, who performs judicial service at the direction and assignment of the Chief Judge of the District Court, is compensated for those services at the rate of \$300 per day or \$175 per 1/2 day, provided that the total per diem compensation and retirement pension received by an Active Retired Judge of the District Court in any calendar year does not exceed the annual salary of a Judge of the District Court. [2001, c. 439, Pt. DDD, §2 (AMD).]

SECTION HISTORY

1983, c. 853, §§C13,18 (NEW). 1989, c. 501, §§O17,22 (AMD). 1989, c. 596, §C8 (AMD). 1991, c. 824, §§B13,14 (AFF). 1997, c. 643, §M10 (AMD). 2001, c. 439, §DDD2 (AMD).

§157-E. JUDGE OR ACTIVE RETIRED JUDGE OF DISTRICT COURT ASSIGNED TO SIT IN ADMINISTRATIVE COURT

(REPEALED)

SECTION HISTORY

1989, c. 891, §A6 (NEW). 1999, c. 547, §B80 (AFF). 1999, c. 547, §B9 (RP).

§158. EX OFFICIO, NOTARY PUBLIC; MAY ADMINISTER OATHS

Judges and clerks of the District Court are, ex officio, notaries public, and all their official acts, attested by them in either capacity, except those pertaining to the exclusive jurisdiction of judges and clerks of District Courts, are of equal effect. Judges and clerks of the District Court may administer all oaths required by law, unless another officer is specifically required to do it. [1981, c. 456, §3 (AMD).]

SECTION HISTORY

1981, c. 456, §A3 (AMD).

§159. CLERKS; APPOINTMENT

For each division, for the violations bureau and for the office of the Chief Judge, the Chief Judge shall appoint clerks and deputy clerks as necessary. A clerk of the Superior Court may also serve as the clerk of the District Court. If the business of any division or the violations bureau does not require the full-time service of a clerk, the Chief Judge may appoint a part-time clerk for that division or violations bureau. Whenever the clerk is unable to perform the duties of that office or so directs, the deputy has all the power and performs all

the duties of clerk. Whenever a clerk is absent or temporarily unable to perform the duties as clerk and there is no deputy clerk authorized or available to exercise the powers and perform the duties of clerk and an existing or immediate session of the court renders it necessary, the Chief Judge may designate a clerk pro tempore who has the same powers and duties of the clerk. [1995, c. 560, Pt. I, §14 (AMD).]

The clerk of the District Court may sign notices to appear in court for hearings on nonpayment of fines, counsel fees or restitution. [1997, c. 135, §2 (NEW).]

SECTION HISTORY

1973, c. 83, (AMD). 1983, c. 131, §1 (AMD). 1991, c. 549, §1 (AMD). 1991, c. 549, §17 (AFF). 1995, c. 560, §14 (AMD). 1997, c. 135, §2 (AMD).

§160. CLERKS, TAKING OF BAIL AUTHORIZED

(REPEALED)

SECTION HISTORY

1965, c. 356, §2 (AMD). 1967, c. 134, (AMD). 1987, c. 758, §1 (RP).

§161. JUSTICE OF THE PEACE; APPOINTMENT; DUTIES; SALARY

The Chief Judge of the District Court may authorize any attorney-at-law, who is duly licensed to practice law in the State, to receive complaints and to issue process for the arrest of persons charged with offenses, to issue search warrants and to endorse certificates of commitment of the mentally ill, all in accordance with law, and to perform all other such acts and duties that are or may be authorized by law. The powers to issue process for the arrest of persons charged with offenses and to issue search warrants extend to offenses subject to the exclusive jurisdiction of the Passamaquoddy Tribe or the Penobscot Nation under the terms of Title 30, section 6209-A or 6209-B. That attorney may be known as a justice of the peace. [1995, c. 388, §1 (AMD); 1995, c. 388, §8 (AFF).]

The justice of the peace shall serve at the pleasure of the Chief Judge of the District Court, but no term for which a justice of the peace is appointed may exceed 5 years. [1987, c. 736, §3 (AMD).]

The justice of the peace shall receive such salary as shall be determined by the Chief Judge and paid as an expense of the District Court. [1987, c. 736, §3 (AMD).]

The Chief Judge of the District Court may also authorize any clerk or deputy clerk of the District Court to issue process for the arrest of persons charged with offenses if the Chief Judge is satisfied that the clerk or deputy clerk has the necessary training and learning to perform that function. When acting in that capacity, the clerk or deputy clerk shall be considered a justice of the peace and shall serve at the pleasure of the Chief Judge. [1987, c. 736, §3 (NEW).]

SECTION HISTORY

1967, c. 420, (AMD). 1967, c. 434, §1 (AMD). 1973, c. 216, (RPR). 1985, c. 737, §A12 (AMD). 1987, c. 736, §3 (AMD). 1991, c. 484, §1 (AMD). 1995, c. 388, §1 (AMD). 1995, c. 388, §8 (AFF).

§162. PLACE FOR HOLDING COURT; SUITABLE QUARTERS

In each division, the place for holding court must be located in a state, county or municipal building designated by the Chief Judge who, with the advice and approval of the Bureau of General Services, is empowered to negotiate on behalf of the State the leases, contracts and other arrangements the Chief Judge considers necessary, within the limits of the budget and the funds available, to provide suitable quarters, adequately furnished and equipped for the District Court in each division. [2011, c. 691, Pt. B, §4 (AMD).]

The facilities of the Superior Court in each county when that court is not in session must be available for use by the District Court of that division in which such facilities are located. Arrangements for such use must be made by the Chief Judge. [2009, c. 415, Pt. B, §1 (AMD).]

If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as provided in this section, the Chief Judge may, with the advice and approval of the Bureau of General Services, negotiate on behalf of the State, the leases, contracts and other arrangements the Chief Judge considers necessary, within the limits of the budget and funds available, to provide suitable quarters, adequately furnished and equipped for the District Court in privately owned buildings. [2011, c. 691, Pt. B, §4 (AMD).]

SECTION HISTORY

2009, c. 415, Pt. B, §1 (AMD). 2011, c. 691, Pt. B, §4 (AMD).

§163. FUNDS

1. District Court funds. Except as otherwise provided by law, all fines, forfeitures, surcharges, assessments and fees collected in any division of the District Court or by the violations bureau must be paid to the clerk of that District Court, who shall deposit them in a special account in a timely manner. Once each month, the clerk shall remit the sums to the Treasurer of State, who shall credit them to the General Fund. At the same time, the clerk shall remit the sums that have been collected in accordance with section 1057; Title 5, chapter 316-A; Title 7, section 3910-A; Title 17, section 1015; Title 29-A, section 2411, subsection 7; former Title 34-A, section 1210-A, subsection 9; and Title 34-A, section 1210-B, subsection 6. Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost-effective to do so. Interest accrued in the account is the property of and accrues to the State. The forfeiture and setoff of bail is governed as otherwise provided by law.

[2015, c. 44, §1 (AMD) .]

2. Expenses. The Treasurer of State shall pay all sums of money produced by cases in the District Court which shall become due to state departments and agencies, municipalities, and state, county and municipal offices.

[1967, c. 449, §2 (RPR) .]

3. District Court Building Fund.

[2009, c. 415, Pt. B, §2 (RP) .]

4. Balance to State. The balance remaining in the District Court Fund after paying or setting aside the sums described in this section shall accrue to the State.

[1975, c. 735, §6 (RPR) .]

SECTION HISTORY

1967, c. 449, §§1-3 (AMD). 1971, c. 97, §1 (AMD). 1975, c. 383, §§4-A (AMD). 1975, c. 408, §13 (AMD). 1975, c. 735, §6 (AMD). 1979, c. 127, §13 (AMD). 1987, c. 339, §2 (AMD). 1989, c. 501, §P3 (AMD). RR 1991, c. 2, §4 (COR). 1991, c. 132, §2 (AMD). 1991, c. 549, §2 (AMD). 1991, c. 549, §17 (AFF). 1991, c. 806, §1 (AMD). 1995, c. 65, §A3 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1999, c. 357, §2 (AMD). 2001, c. 617, §2 (AMD). 2001, c. 698, §2 (AMD). 2001, c. 698, §7 (AFF). 2003, c. 20, §R2 (AMD). 2003, c. 20, §R10 (AFF). 2007, c. 377, §2 (AMD). 2007, c. 377, §17 (AFF). 2009, c. 415, Pt. B, §2 (AMD). 2015, c. 44, §1 (AMD).

§164. DUTIES OF CHIEF JUDGE

The Chief Judge shall be responsible to and under the supervision of the Chief Justice of the Supreme Judicial Court for the operation of the District Court and shall serve as Chief Judge at the pleasure of the Chief Justice. To this end the Chief Judge shall: [1975, c. 408, §14 (AMD) .]

1. Hold court when necessary. Hold court in any division when he deems it necessary by reason of illness, absence or disability of the judge regularly assigned or by reason of an excessive case load in any district;

1-A. Appoint bail commissioners. Appoint bail commissioners pursuant to Title 15, section 1023, for any district;

[1995, c. 462, Pt. A, §3 (RPR) .]

2. Assign judges. Assign judges to hold court in any division where, in the judgment of the Chief Judge, they are needed;

[1993, c. 675, Pt. B, §6 (AMD) .]

3. Days and hours for holding court. Fix the days and hours for holding court in each division;

[1991, c. 824, Pt. A, §2 (AMD) .]

4. Vacations. Determine the times for the taking of vacations by all district judges;

5. Assign judges.

[1993, c. 675, Pt. B, §7 (RP) .]

6. Records and reports. Prescribe, subject to the approval of the Chief Justice or his delegate, the records to be kept and destroyed and the reports to be made by each district judge;

[1975, c. 408, §15 (AMD) .]

7. Statistics. Collect such statistics and other information pertaining to the business of the District Court as are requested by the Chief Justice or his delegate;

[1975, c. 408, §15 (AMD) .]

8. Budget. Utilizing such assistance from the Administrative Office of the Courts as he may request, prepare and submit a proposed annual budget for the District Court to the Chief Justice or his delegate;

[1977, c. 544, §9 (AMD) .]

9. Report. Render to the Chief Justice of the Supreme Judicial Court an annual report on the state of business in the District Court and on the conferences held pursuant to subsection 11;

10. Courtroom facilities. Make necessary arrangements for proper courtroom facilities for all branches of the District Court pursuant to section 162; establish headquarters with appropriate facilities for the Chief Judge; and establish quarters and facilities for all District Court judges;

[1993, c. 675, Pt. B, §8 (AMD) .]

11. Conference of judges. Convene at least once annually at such place as he may deem appropriate, a conference of District Court Judges to consider and take action upon or make recommendations with respect to current problems in the operation of the District Court. The expenses of District Court Judges attending this conference shall be an expense of the District Court;

12. Violations bureau. Notwithstanding any other statute or law, establish the violations bureau.

A. The violations bureau has jurisdiction over all traffic infractions committed in this State. Unless otherwise ordered by a court, trial of a traffic infraction must be in the division in which the alleged infraction was committed. [1991, c. 549, §17 (AFF); 1991, c. 549, §3 (RPR).]

B. The Chief Judge by order, which may from time to time be amended, shall designate the amount of fines imposed for traffic infractions. [1991, c. 549, §17 (AFF); 1991, c. 549, §3 (RPR).]

C. The Maine Rules of Civil Procedure applies in all traffic infraction proceedings. [1991, c. 549, §17 (AFF); 1991, c. 549, §3 (RPR).]

D. The clerk of each division has the authority to accept pleadings and fines on behalf of the violations bureau; [1991, c. 549, §17 (AFF); 1991, c. 549, §3 (RPR).]

E. [1991, c. 549, §17 (AFF); 1991, c. 549, §3 (RP).]

[1991, c. 549, §17 (AFF); 1991, c. 549, §3 (RPR) .]

13. Additional duties. Perform such additional duties as may be assigned by the Chief Justice of the Supreme Judicial Court;

[1993, c. 680, Pt. A, §2 (AMD) .]

14. Powers reserved to the Supreme Judicial Court.

[1993, c. 680, Pt. A, §3 (RP) .]

15. Fisheries and wildlife bureau. Establish in each division a fisheries and wildlife bureau. The Chief Judge shall appoint a clerk of the District Court in each division as violations clerk for the fisheries and wildlife bureau in that division.

The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and payments of fines and costs in fisheries and wildlife offense cases, subject to the limitations prescribed in this subsection. The violations clerk serves under the direction and control of the judge of the court for which the violations clerk is appointed.

A. A fisheries and wildlife offense means any violation of any provision of Title 12, Part 13; any provision of law enumerated in Title 12, section 10353; or any rule adopted by the Commissioner of Inland Fisheries and Wildlife pursuant to these provisions. [2003, c. 414, Pt. B, §1 (AMD); 2003, c. 614, §9 (AFF).]

B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the fisheries and wildlife offenses within the authority of the violations clerk, except that such offenses may not include any offense for which a mandatory minimum term of imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines to be imposed for such offenses. The order of the court establishing the schedules must be prominently posted in the place where the fines are paid. Fines and costs must be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions. [1993, c. 680, Pt. A, §4 (AMD) .]

C. Any person charged with any fisheries and wildlife offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk and enter a plea admitting the infraction charged and waiver of trial and pay the fine established for the infraction charged and costs.

Any person entering a plea admitting the infraction charged must be informed of that person's rights, including the right to stand trial, that that person's signature to a plea admitting the infraction charged will have the same effect as a judgment of the court and that the record of adjudication will be sent to the Commissioner of Inland Fisheries and Wildlife. [1993, c. 680, Pt. A, §4 (AMD).]

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, one or more previous fisheries and wildlife offenses subject to this subsection within a 12-month period may not appear before the violations clerk unless the court, by order, permits that appearance. Each waiver of hearing filed under this subsection must recite on the oath or affirmation of the offender whether or not the offender has been previously found guilty of, or to have committed, or has previously signed a plea of guilty to, admitting or admitting with an explanation to, one or more fisheries and wildlife offenses within a 12-month period. Any person swearing falsely to such a statement, upon conviction, is subject to a fine of not more than \$50. [1995, c. 462, Pt. A, §4 (AMD).]

E. The Chief Judge, following notification to the Chief Justice of the Supreme Judicial Court or the Chief Justice's delegate, may authorize forms and procedures the Chief Judge considers appropriate to carry out this subsection; [1993, c. 680, Pt. A, §4 (AMD).]

[2003, c. 414, Pt. B, §1 (AMD); 2003, c. 614, §9 (AFF) .]

16. Development and implementation of administrative concepts. Carry on a continuous survey and study of the organization, operation, condition of business, practice and procedure of the District Court and make recommendations to the Chief Justice of the Supreme Judicial Court concerning the number of judges and other personnel required for the efficient administration of justice and examine, with the advice of the judges of the District Court, the status of dockets of the various District Courts to determine whether the business of the court is being carried out in an efficient manner. From such an examination, the Chief Judge shall annually make recommendations to the Chief Justice of the Supreme Judicial Court for guidelines and policies for the scheduling and trial of matters before the District Court. In providing recommendations, the Chief Judge shall give due and appropriate regard to the recommendations of the judges and other personnel of the District Court and shall provide a mechanism whereby their individual recommendations and comments may be brought to the attention of the Chief Justice. The Chief Judge, in advising as to the appropriateness of the methods or the systems for scheduling trials and the management of matters before the District Court, shall take into consideration systems and methods operational in the Superior Court. The final decision as to the management of personnel and the implementation of guidelines, policies and procedures for the scheduling of trials and management of matters before the District Court must be made by the Chief Justice only after consultation with the Chief Judge;

[1993, c. 680, Pt. A, §5 (AMD) .]

17. Marine resources bureau. Establish in each division a marine resources bureau. The Chief Judge shall appoint a clerk of the District Court in each division as violations clerk for the marine resources bureau in that division.

The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and payments of fines and costs in marine resources offense cases, subject to the limitations prescribed in this subsection. The violations clerk serves under the direction and control of the judge of the court for which the violations clerk is appointed.

A. A marine resources offense means any violation of any provision of Title 12, chapters 601 to 627 and chapters 935, 937 and 939, or any rules adopted by the Commissioner of Marine Resources pursuant to those chapters. [2003, c. 414, Pt. B, §2 (AMD); 2003, c. 614, §9 (AFF).]

B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the marine resources offenses within the authority of the violations clerk, except that the offenses may not include any offense for which a mandatory minimum term of imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines

to be imposed for the offenses. The order of the court establishing the schedules must be prominently posted in the place where the fines are paid. Fines and costs must be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions. [1993, c. 680, Pt. A, §6 (AMD).]

C. Any person charged with any marine resources offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk. Any person may enter a plea admitting the violation charged and waiver of trial and pay the fine, and costs, established for the violation charged. Any person entering a plea admitting the infraction charged must be informed of that person's rights, including the right to stand trial, that that person's signature to a plea admitting the violation charged will have the same effect as a judgment of the court and that the record of adjudication will be sent to the Commissioner of Marine Resources. [1993, c. 680, Pt. A, §6 (AMD).]

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, one or more previous marine resources offenses subject to this subsection within a 12-month period may not appear before the violations clerk unless the court, by order, permits that appearance. Each waiver of hearing filed under this subsection must recite on the oath or affirmation of the offender whether or not the offender has been previously found guilty of or to have committed or has previously signed a plea of guilty to, admitting or admitting with an explanation to, one or more marine resources offenses within a 12-month period. Any person swearing falsely to such a statement is, upon conviction, subject to a fine of not more than \$50. [1993, c. 680, Pt. A, §6 (AMD).]

E. The Chief Judge, following notification to the Chief Justice of the Supreme Judicial Court or the Chief Justice's delegate, may authorize such forms and procedures as the Chief Judge considers appropriate to carry out this subsection; and [1993, c. 680, Pt. A, §6 (AMD).]

[2003, c. 414, Pt. B, §2 (AMD); 2003, c. 614, §9 (AFF) .]

18. Forest service bureau. Establish in each division a forest service bureau. The Chief Judge shall appoint the clerk of the District Court in each division as violations clerk for the forest service bureau.

The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and payments of fines and costs in forest service offense cases, subject to the limitations prescribed in this subsection. The violations clerk serves under the direction and control of the judge of the court for which that clerk is appointed.

A. For purposes of this subsection, a forest service offense means any violation of Title 12, chapters 801, 805, 807, 809, 935, 937 and 939 and section 10203, subsection 6 and sections 10651, 10653 and 11221 or any rules adopted by the Director of the Maine Forest Service pursuant to those chapters. [2003, c. 414, Pt. B, §3 (AMD); 2003, c. 614, §9 (AFF).]

B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the forest service offenses within the authority of the violations clerk, except that the offenses may not include any offense for which a mandatory minimum term of imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines to be imposed for the offenses. The order of the court establishing the schedules must be prominently posted in the place where the fines are paid. Fines and costs must be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions. [1991, c. 635, (NEW).]

C. A person charged with a forest service offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk. A person may enter a plea admitting the violation charged and a waiver of trial and pay the fine and costs established for the violation charged. A person entering a plea admitting the violation charged must be informed of the person's rights, including the right to stand trial, that the person's signature to a plea admitting the violation charged has the same effect as a judgment of the court and that the record of adjudication will be sent to the Director of the Maine Forest Service. [1991, c. 635, (NEW).]

D. A person who, within a 12-month period, has been found guilty of, has signed a plea of guilty to, has been found to have committed or has signed a plea admitting, or admitting with an explanation, one or more previous forest service offenses subject to this subsection may not appear before the violations clerk unless the court, by order, permits that appearance. Each waiver of hearing filed under this subsection must recite on the oath or affirmation of the offender whether the offender was previously found guilty of or committed or previously signed a plea of guilty to or signed a plea admitting, or admitting with an explanation, one or more forest service offenses within a 12-month period. A person swearing falsely to such a statement is subject, upon conviction, to a fine of not more than \$50. [1991, c. 635, (NEW).]

E. The Chief Judge, following notification to the Chief Justice of the Supreme Court or the Chief Justice's delegate, may authorize forms and procedures as the Chief Judge considers appropriate to carry out this subsection. [1991, c. 635, (NEW).]

[2003, c. 414, Pt. B, §3 (AMD); 2003, c. 614, §9 (AFF) .]

Powers not enumerated in this section but necessary or desirable for the proper administration of the courts may, from time to time, be promulgated and assigned, by rule of the Supreme Judicial Court. [1993, c. 680, Pt. A, §7 (NEW).]

SECTION HISTORY

1969, c. 299, (AMD). 1973, c. 625, §9 (AMD). 1975, c. 408, §§14-19 (AMD). 1975, c. 430, §§4,5 (AMD). 1975, c. 623, §§3-C (AMD). 1975, c. 731, §§1,2 (AMD). 1975, c. 770, §12 (AMD). 1977, c. 392, (AMD). 1977, c. 544, §§7-10 (AMD). 1977, c. 696, §§22,23 (AMD). 1979, c. 541, §§A11,A12 (AMD). 1981, c. 414, §1 (AMD). 1983, c. 107, (AMD). 1983, c. 548, §2 (AMD). 1985, c. 481, §A4 (AMD). 1985, c. 506, §B2 (AMD). 1987, c. 758, §2 (AMD). 1989, c. 875, §E4 (AMD). 1989, c. 891, §A7 (AMD). 1991, c. 91, (AMD). 1991, c. 549, §3 (AMD). 1991, c. 549, §17 (AFF). 1991, c. 635, (AMD). 1991, c. 824, §A2 (AMD). 1993, c. 675, §§B5-8 (AMD). 1993, c. 680, §§A1-7 (AMD). 1995, c. 462, §§A3,4 (AMD). 2003, c. 414, §§B1-3 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§164-A. ACCEPTANCE OF FINE AND GUILTY PLEA

The clerk of each division may accept a guilty plea to a criminal traffic offense upon payment of a fine and surcharge in accordance with a schedule of offenses and fines established by the Chief Judge. A person tendering payment of a fine without filing a signed waiver is deemed to have read and waived that person's rights, to understand that tendering payment is deemed a waiver and has the same effect as a judgment of the court and to understand that the record of the judgment will be sent to the Secretary of State. [1991, c. 549, §4 (NEW); 1991, c. 549, §17 (AFF).]

SECTION HISTORY

1991, c. 549, §4 (NEW). 1991, c. 549, §17 (AFF).

§164-B. APPOINTMENT OF CLERK

(REPEALED)

SECTION HISTORY

1991, c. 549, §4 (NEW). 1991, c. 549, §17 (AFF).

§165. DISTRICT COURT; JURISDICTION OVER CRIMES AND JUVENILE OFFENSES

1. Crimes; under one year imprisonment. The District Court has jurisdiction and, except as provided in Title 29-A, section 2602, concurrent jurisdiction with the Superior Court of all crimes, including violation of any statute or a bylaw of a town, village corporation or local health officer and breach of the peace, for which the maximum term of imprisonment to which the defendant may be sentenced upon conviction of that crime is less than one year.

[1999, c. 731, Pt. ZZZ, §6 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

2. Juvenile Court. The District Court has jurisdiction over juvenile offenses pursuant to Title 15, Part 6.

[1999, c. 731, Pt. ZZZ, §6 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

3. Crimes; one year or more imprisonment. The District Court has, concurrent with the Superior Court, original jurisdiction to receive pleas of guilty in criminal cases, other than murder, in which:

A. The maximum term of imprisonment to which the defendant may be sentenced upon conviction of that crime is one year or more; [1999, c. 731, Pt. ZZZ, §6 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

B. The defendant has in writing waived the defendant's right to indictment by grand jury and the defendant's right to a jury trial; and [1999, c. 731, Pt. ZZZ, §6 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

C. The defendant has indicated the defendant's intention to enter a plea of guilty to the charges pending against the defendant. [1999, c. 731, Pt. ZZZ, §6 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

When exercising such jurisdiction, the District Court possesses all of the powers of the Superior Court. The District Court shall exercise that jurisdiction in the manner that the Supreme Judicial Court by rule provides. Any person sentenced under this subsection is entitled to the rights provided by Title 15, chapter 306-A.

[2005, c. 326, §1 (AMD); 2005, c. 326, §5 (AFF) .]

4. Issue process. The District Court has jurisdiction to issue process with respect to any violation over which the Passamaquoddy Tribe or the Penobscot Nation exercises exclusive jurisdiction under Title 30, section 6209-A or 6209-B.

[1999, c. 731, Pt. ZZZ, §6 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

5. Power to sentence. The District Court may impose any authorized sentencing alternative.

[1999, c. 731, Pt. ZZZ, §6 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

SECTION HISTORY

1975, c. 430, §6 (AMD). 1991, c. 484, §2 (AMD). 1995, c. 65, §A4 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 388, §2 (AMD). 1995, c. 388, §8 (AFF). 1999, c. 731, §ZZZ42 (AFF). 1999, c. 731, §ZZZ6 (RPR). 2005, c. 326, §1 (AMD). 2005, c. 326, §5 (AFF).

§166. -- TERMS OF COURT (REPEALED)

SECTION HISTORY

1965, c. 19, §1 (RP).

§167. -- BAIL

(REPEALED)

SECTION HISTORY

1965, c. 356, §3 (RP).

§168. EXAMINATION TO DETERMINE SANITY OF ACCUSED

A Judge of the District Court may order a person, who is accused of an offense, to be examined by a physician without delay, to determine whether or not such person is insane. The cost of such examination shall be paid from the treasury of the county in which the action is pending. [1967, c. 222, (AMD).]

SECTION HISTORY

1967, c. 222, (AMD).

§169. ADMINISTRATION OF OATHS

Judges of the District Court and notaries public may administer all oaths required by law, unless another officer is specially required to do it. [1981, c. 456, Pt. A, §4 (AMD).]

SECTION HISTORY

1981, c. 456, §A4 (AMD).

§170. COMMANDING ASSISTANCE FOR ARREST

Upon view of an affray, riot, assault or battery, Judges of the District Court may, without warrant, command the assistance of any sheriff, deputy sheriff, constable or person present to repress the same and to arrest all concerned therein.

§171. DUTY ON RECEIPT OF COMPLAINTS

When complaint is made to the proper officer of the District Court charging a person with the commission of a criminal offense, he shall issue a warrant for his arrest or a summons in such form and under such circumstances as the Supreme Judicial Court shall by rule provide. [1979, c. 663, §9 (RPR).]

He may, and on complaint shall, cause to be arrested persons found within his county or in an adjoining county under the conditions specified in the first paragraph of section 161 charged with offenses; and those having committed offenses therein or in an adjoining county who have escaped therefrom or from an adjoining county; and all persons charged with offenses and crimes, and all affrayers, rioters, breakers of the peace and violators of the law, and may require such offenders to find sureties for keeping the peace. [1987, c. 758, §3 (AMD).]

A district judge may try those brought before him for offenses within his jurisdiction, although the penalty or fine accrues wholly or partly to his town. [1979, c. 663, §9 (RPR).]

Warrants issued by the proper officer of the District Court in criminal cases shall be signed by that officer at the time they are issued. [1979, c. 663, §9 (NEW).]

SECTION HISTORY

1965, c. 356, §4 (RPR). 1965, c. 425, §4 (AMD). 1967, c. 434, §2 (AMD). 1975, c. 430, §7 (AMD). 1975, c. 731, §3 (AMD). 1979, c. 127, §14 (AMD). 1979, c. 663, §9 (RPR). 1987, c. 758, §3 (AMD).

§171-A. TRAFFIC INFRACTION AND CIVIL VIOLATION COMPLAINTS

1. Traffic infraction. When a complaint is made to the proper officer of the District Court charging a person with the commission of a traffic infraction the officer of the District Court shall cause to be served upon the person a Violation Summons and Complaint or other process in such form and under such circumstances as the Supreme Judicial Court shall by rule provide.

[1991, c. 733, §1 (NEW) .]

2. Civil violations. When a complaint is made to the proper officer of the District Court charging a person with the commission of a civil violation other than a traffic infraction, the officer of the District Court shall cause to be served upon the person a Uniform Summons and Complaint or other process in such form and under such circumstances as the Supreme Judicial Court shall by rule provide.

[1991, c. 733, §1 (NEW) .]

SECTION HISTORY

1975, c. 731, §4 (NEW). 1991, c. 733, §1 (RPR).

§172. JUDGE UNABLE TO ATTEND; CONTINUANCE

Whenever a District Judge is unable to attend court, any clerk of the District Court may continue any case in such court for a period of not more than 14 days.

§173. COSTS AND FEES; CRIMINAL

The following provisions shall apply to the District Court:

1. Definitions and limitations. This section applies only to costs and fees arising from the criminal and civil violation proceedings in the District Court. When any criminal or civil violation case is appealed from such court to the Superior Court, the latter may tax and impose costs from its proceeding which may not include any fees or costs arising from the proceedings or arrest in the lower court.

Nothing in this section shall be interpreted to prohibit a court from filing a case upon payment of costs without a conviction or adjudication; provided that upon motion at any time by either party, the court shall bring a filed case forward and proceed to a disposition of the pending complaint.

Nothing in this section shall be interpreted to deprive a law enforcement officer of compensation for his services and expenses, but this section may shift the responsibility for providing such compensation.

The term "law enforcement officer" shall mean any person who by virtue of his public employment is vested by law with a duty to enforce any criminal law of this State by making arrests, whether that duty extends to all crimes or is limited to specific crimes, or with a duty to enforce any law of this State establishing a civil violation.

[1975, c. 731, §§5-7 (AMD) .]

2. Defendant not to be sentenced to pay costs of court as such. The District Court may not, in any criminal proceeding, sentence any defendant to pay costs of court as such, but may take the costs into consideration and include in any fine imposed a sum adequate to cover all or any part of them without reference to such costs and without taxing them, provided the maximum fine for the particular offense is not exceeded.

[1975, c. 731, §8 (AMD) .]

2-A. Costs in traffic infraction or civil violation cases. The Chief Judge shall establish costs to be paid by a defendant to reopen a traffic infraction or civil violation case after the case has been disposed of by default resulting from the defendant's failure to file a timely answer or the defendant's failure to appear in court.

In addition to other penalties provided by law, the court may impose on the defendant reasonable costs for the defendant's failure to answer or the defendant's failure to appear in court.

[1991, c. 733, §2 (AMD) .]

3. Reports and records of costs and fees.

[1979, c. 127, §15 (RP) .]

4. Distribution of fees and fines.

[1997, c. 750, Pt. A, §1 (RP) .]

4-A. Law enforcement officer services, reimbursement and compensation. The court shall reimburse or compensate municipalities and counties for law enforcement officer services as follows.

A. The court shall reimburse the municipality or county that employs the law enforcement officer a flat fee of \$50 for each day or part of a day that a law enforcement officer is physically present for a scheduled trial in District Court, whether or not the officer is called upon to give testimony. [1999, c. 731, Pt. CCCC, §1 (AMD) .]

B. The court shall pay a municipality or county a flat fee of \$50 for each day or part of a day that a municipal or county law enforcement officer, designated by the municipality or county as its court officer, is physically present in a District Court in order to adequately handle that municipality's or county's case load.

The court officer required to be present at an arraignment may be an officer other than the arresting officer if the municipality or county has designated the officer to handle the arraignment case load of that municipality or county. In addition, one or more municipalities may designate either a municipal law enforcement officer or a county law enforcement officer to represent the municipalities at arraignments. [1999, c. 731, Pt. CCCC, §1 (AMD) .]

C. The sheriffs of the several counties shall designate and furnish deputy sheriffs to serve as bailiffs in each division of the District Court within their counties if requested by the Chief Judge. A deputy sheriff designated as bailiff must be approved by the Chief Judge and may not serve as a court officer for any law enforcement agency. Compensation for reasonable and necessary expenses, as agreed to by the parties, must be paid by the District Court.

In a municipality where a police officer has been furnished to serve as a bailiff, the Chief Judge may continue to authorize the use of a police officer as a bailiff and the District Court shall compensate the municipality. A person appointed to serve as bailiff may not serve as court officer for a municipal police department as provided in this subsection. [1997, c. 750, Pt. A, §2 (NEW) .]

[1999, c. 731, Pt. CCCC, §1 (AMD) .]

4-B. Law Enforcement Agency Reimbursement Fund. The Law Enforcement Agency Reimbursement Fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts.

A. The Administrative Office of the Courts shall use the fund to reimburse municipalities and counties pursuant to subsection 4-A. [1997, c. 750, Pt. A, §2 (NEW) .]

B. Six percent of fines and forfeitures collected for traffic infractions must be deposited in the fund as provided in Title 29-A, section 2602, subsection 4, paragraphs A and B. [1997, c. 750, Pt. A, §2 (NEW).]

C. The balance remaining in the fund at the end of the fiscal year must be transferred to the General Fund. [1997, c. 750, Pt. A, §2 (NEW).]

D. If there is a deficit in the fund at the end of the fiscal year, the Treasurer of State shall transfer a sufficient amount from the General Fund to balance the fund. [1997, c. 750, Pt. A, §2 (NEW).]

[1997, c. 750, Pt. A, §2 (NEW) .]

5. Disbursement to appointed counsel. In any proceeding where the court has appointed counsel, that appointed counsel shall be reimbursed by the court for reasonable disbursements made in behalf of the client, including but not limited to witness fees, sheriff's fees and travel, upon approval of these disbursements by the court.

[1977, c. 114, §9 (RPR) .]

SECTION HISTORY

1965, c. 356, §5 (AMD). 1967, c. 244, (AMD). 1967, c. 397, (AMD). 1967, c. 408, §1 (AMD). 1967, c. 449, §4 (AMD). 1967, c. 521, §§1,2 (AMD). 1967, c. 544, §4 (AMD). 1971, c. 97, §2 (AMD). 1971, c. 252, §§1,2 (AMD). 1971, c. 261, §1 (AMD). 1971, c. 593, §22 (AMD). 1971, c. 618, §12 (AMD). 1971, c. 622, §5 (AMD). 1975, c. 95, (AMD). 1975, c. 292, (AMD). 1975, c. 341, (AMD). 1975, c. 369, §§1,2 (AMD). 1975, c. 430, §§8-15 (AMD). 1975, c. 623, §§3-E (AMD). 1975, c. 731, §§5-12 (AMD). 1975, c. 777, §2 (AMD). 1977, c. 114, §§3-9 (AMD). 1979, c. 127, §§15,16 (AMD). 1983, c. 742, (AMD). 1989, c. 89, (AMD). 1989, c. 722, §3 (AMD). 1991, c. 549, §5 (AMD). 1991, c. 549, §17 (AFF). 1991, c. 733, §2 (AMD). 1991, c. 780, §X2 (AMD). 1993, c. 675, §B9 (AMD). 1997, c. 750, §§A1,2 (AMD). 1999, c. 731, §CCCC1 (AMD).

§173-A. COSTS TAXABLE FOR THE STATE IN CIVIL VIOLATION OR TRAFFIC INFRACTION PROCEEDINGS

Costs in the amount of \$25 shall be automatically taxable for the State in civil violation and traffic infraction proceedings for failure to pay a fine imposed for the commission of a civil violation or traffic infraction within 30 days of entry of judgment or within 30 days of the date fixed for a final installment payment if the fine is to be paid under a plan approved under Title 14, section 3141, subsection 4. [1987, c. 708, §1 (AMD).]

SECTION HISTORY

1975, c. 731, §§12-A (NEW). 1985, c. 481, §A5 (AMD). 1987, c. 414, §1 (RPR). 1987, c. 708, §1 (AMD).

§174. CIVIL AND CRIMINAL; OVERCHARGING COSTS (REPEALED)

SECTION HISTORY

1965, c. 19, §2 (AMD). 1975, c. 346, §§1-3 (AMD). 1975, c. 430, §§16,17 (AMD). 1975, c. 731, §13 (AMD). 1975, c. 770, §13 (AMD). 1985, c. 384, §1 (RP).

§175. FEES OF DISTRICT COURTS

The Supreme Judicial Court shall have the authority to prescribe rules establishing the fees of the District Courts. [1979, c. 425, §1 (RPR).]

SECTION HISTORY

1975, c. 346, §4 (AMD). 1979, c. 425, §1 (RPR).

§176. FEES FOR ENTERING AN APPEAL

No Judge of a District Court division shall demand or receive any fees for entering an appeal or admitting to bail to prosecute it, in a criminal or traffic infraction case. The legal fees therefor may be taxed in the bill of costs, and certified and paid like other fees. [1975, c. 430, §18 (AMD).]

SECTION HISTORY

1965, c. 356, §6 (AMD). 1975, c. 430, §18 (AMD).

§177. SERVICE OF PROCESS STATEWIDE

All process of the District Court shall run throughout the State, and may be served outside of the division from which issued with the same effect as if served within such division.

§178. ABSTRACT OF RECORD OF DIVORCE TO BE FILED WITH SUPERIOR COURT

(REPEALED)

SECTION HISTORY

1967, c. 129, (NEW). 1973, c. 625, §10 (AMD). 1979, c. 13, §4 (RP).

§179. ADMINISTRATIVE SEARCH WARRANTS

A District Court Judge may issue warrants to conduct administrative searches in such manner, for such purposes and under such circumstances as the Supreme Judicial Court shall by rule provide. [1973, c. 486, (NEW).]

SECTION HISTORY

1973, c. 486, (NEW).

§180. SITE INSPECTION WARRANTS

A District Court Judge may issue warrants to conduct surveys and tests on land that is under consideration for purchase or taking through eminent domain by the State or any of its political subdivisions. The Supreme Judicial Court shall provide by rule the manner and circumstances for the issuance of such warrants subject to the following conditions: [1975, c. 753, (NEW).]

1. Compelling need. There is a compelling need for the issuance of the warrant, such as required compliance with state statutes or regulations or protection of the public health, safety or welfare;

[1975, c. 753, (NEW) .]

2. Notice to owner. The owner of the land shall be served notice at least 14 days prior to the day when any survey or test is initiated;

[1975, c. 753, (NEW) .]

3. Completion within 30 days. All tests and surveys shall be completed within 30 days of entry;

[1975, c. 753, (NEW) .]

4. Distance from occupied dwelling. No soils test may be conducted within 200 yards of an occupied dwelling;

[1975, c. 753, (NEW) .]

5. Site restoration. Upon completion of any soils test or analysis, all holes, pits or trenches created thereby shall be filled in and the site restored as best practicable to its original condition; and

[1975, c. 753, (NEW) .]

6. Compensation for damages. The owner of land subject to a survey or test shall have the right to be compensated for any actual damage caused as a result of the surveys and tests. Upon request of the landowner within 30 days after entry on his premises, the governmental unit shall hold a public hearing to determine whether he is entitled to compensation for actual damages caused by the testing. The governmental unit shall publish a notice of the time and place of hearing in a newspaper having general circulation in its area at least 7 days before the hearing. The governmental unit shall pay the landowner forthwith the amount of compensation to which it determines he is entitled. If the landowner is aggrieved by the decision of the governmental unit, he may appeal to the Superior Court as provided in Rule 80B of the Maine Rules of Civil Procedure.

[1975, c. 753, (NEW) .]

SECTION HISTORY

1975, c. 753, (NEW).

§181. HOURS FOR SMALL CLAIMS

(REPEALED)

SECTION HISTORY

1983, c. 548, §3 (NEW). 1985, c. 368, §2 (REEN).

§182. MEDIA COVERAGE OF JUDICIAL PROCEEDINGS

(REPEALED)

SECTION HISTORY

1985, c. 515, §2 (NEW). MRSA T. 4, §182 (RP).

§183. FAMILY DIVISION OF DISTRICT COURT

There is established within the District Court a Family Division that has jurisdiction over family matters filed in District Court. The Family Division shall provide a system of justice that is responsive to the needs of families and the support of their children. The Supreme Judicial Court may adopt administrative orders and court rules governing the practice, procedure and administration of the Family Division. These practices and procedures must include, but are not limited to, education for the parties, case management and referral services to mediation and other alternate dispute resolution techniques. [1997, c. 269, §1 (NEW); 1997, c. 269, §2 (AFF).]

1. Family law magistrates. The Chief Judge of the District Court, with the approval of the Chief Justice of the Supreme Judicial Court, shall employ family law magistrates. In selecting family law magistrates, the Chief Judge shall give proper consideration to achieving statewide geographical representation in the Family Division.

A. Family law magistrates must be members of the Bar of this State and must have experience in the area of family law. Other qualifications may include interest, training or experience in mediation and other alternate dispute resolution techniques, domestic violence, child development, family dynamics and case management. [2005, c. 384, §1 (AMD).]

B. Family law magistrates shall devote themselves solely to the official duties of the position. Family law magistrates may not engage in the private practice of law or in any employment, occupation or business interfering with or inconsistent with the discharge of their duties. The Chief Judge of the District Court shall determine the salaries of the family law magistrates. [2005, c. 384, §1 (AMD).]

C. Family law magistrates are governed by the Maine Code of Judicial Conduct. Family law magistrates serve at the pleasure of the Chief Judge of the District Court. [2005, c. 384, §1 (AMD).]

D. Family law magistrates shall employ appropriate case management techniques and have jurisdiction to hear and dispose of the following matters:

(1) Interim orders in actions involving the establishment, modification or enforcement of child support;

(2) Interim orders in actions involving divorce, legal separation, parentage or parental rights, including interim orders in postjudgment proceedings arising out of these actions, except that a contested motion concerning interim parental rights and responsibilities, excluding interim child support orders, may be determined by the family law magistrate only if both parties consent to determination of the issue or issues in dispute by the family law magistrate;

(2-A) Parental rights and responsibilities and parent-child contact orders entered pursuant to Title 19-A, section 4006, subsection 5 and section 4007, subsection 1, paragraph G to make such orders consistent with subsequently entered orders in matters included in subparagraphs (1), (2) and (3);

(3) Final orders in any of the matters included in subparagraphs (1) and (2) when the proceeding is uncontested;

(4) Final orders in a contested proceeding when child support is the only contested issue;

(4-A) Applications for writs of habeas corpus to facilitate the attendance of proceedings by and return of a party who is incarcerated;

(4-B) Requests for access to confidential Department of Health and Human Services child protective records in accordance with Title 22, section 4008. The family law magistrate may review records in camera to determine whether to grant access; and

(5) Other actions assigned by the Chief Judge of the District Court. [2015, c. 296, Pt. C, §1 (AMD); 2015, c. 296, Pt. D, §1 (AFF).]

E. Interim orders in any of the matters included in paragraph D, subparagraphs (1), (2) and (2-A) are effective immediately and are subject to de novo review by a judge at the final hearing. Final orders in any of the matters included in paragraph D, subparagraphs (3) and (4) are subject to appellate review in the same manner as any final order of the District Court. The family law magistrate shall inform the parties of the rights of review established in this paragraph. [2005, c. 384, §1 (AMD).]

F. A family law magistrate has the power to impose punitive and remedial sanctions in a summary proceeding for contempt occurring in the actual presence of the family law magistrate and seen or heard by the family law magistrate. The Maine Rules of Civil Procedure relating to summary contempt proceedings apply to a family law magistrate exercising the contempt power under this paragraph. [2005, c. 384, §1 (AMD).]

G. The Chief Judge of the District Court may allow family law magistrates to wear robes when presiding over any proceeding. [2011, c. 3, §1 (AMD).]

H. The Chief Judge of the District Court may employ a retired family law magistrate to serve on a per diem basis as an active retired family law magistrate. An active retired family law magistrate employed pursuant to this paragraph has the same jurisdiction and is subject to the same restrictions as before retirement. An active retired family law magistrate serves at the direction of the Chief Judge of the District Court and is compensated at the per diem rate of \$250 per day or \$150 per half-day, as long as the total of the per diem compensation and the active retired family law magistrate's state retirement pension received in any calendar year does not exceed the annual salary of a family law magistrate. Active retired family law magistrates are entitled to receive reimbursement for any expenses actually and reasonably incurred in the performance of their duties. [2013, c. 159, §6 (NEW).]

[2015, c. 296, Pt. C, §1 (AMD); 2015, c. 296, Pt. D, §1 (AFF) .]

2. Additional staff. The State Court Administrator shall provide other necessary staff to the Family Division, within the limits of funds available, and shall seek to take full advantage of federal funding, including reimbursements.

[1997, c. 269, §1 (NEW); 1997, c. 269, §2 (AFF) .]

3. Reports. The State Court Administrator shall keep statistical records relating to the cases handled by the Family Division and report this information to the Supreme Judicial Court annually and to the joint standing committee of the Legislature having jurisdiction over judiciary matters by February 15th of each odd-numbered calendar year.

A. The State Court Administrator shall evaluate the functioning of the family law magistrates in providing a system of justice that is responsive to the needs of families and the support of their children in light of the jurisdiction given to the family law magistrates under this section. The State Court Administrator shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 15, 1999 with recommendations, if any, for changing the duties provided in subsection 1, paragraph D. [2005, c. 384, §1 (AMD).]

B. The State Court Administrator shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 1999 explaining the justification for the particular geographic assignments of the family law magistrates. [2005, c. 384, §1 (AMD).]

[2013, c. 159, §7 (AMD) .]

4. Pilot project. Notwithstanding the jurisdictional limitations of subsection 1, the Chief Justice of the Supreme Judicial Court may establish a pilot project in which one or more family law magistrates have jurisdiction to hear and dispose of all elements of a divorce action when both parties consent. Orders of the family law magistrate are subject to appellate review in the same manner as any final order of the District Court.

[2007, c. 466, Pt. A, §2 (AMD) .]

SECTION HISTORY

1997, c. 269, §1 (NEW). 1997, c. 269, §2 (AFF). 2003, c. 39, §1 (AMD). 2003, c. 84, §§1,2 (AMD). 2003, c. 688, §C1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 384, §1 (AMD). 2005, c. 385, §1 (AMD). 2007, c. 466, Pt. A, §2 (AMD). 2011, c. 3, §1 (AMD). 2013, c. 159, §§6, 7 (AMD). 2015, c. 296, Pt. C, §1 (AMD). 2015, c. 296, Pt. D, §1 (AFF).

§184. LICENSING AND APPELLATE ACTIONS

1. Notice and hearing. In any action within the District Court's jurisdiction under section 152, subsection 9, all parties must be afforded an opportunity for hearing after reasonable notice.

[2001, c. 471, Pt. D, §6 (AMD) .]

2. Complaint filed. On commencement of any case, a written complaint must be filed with the District Court. Except as provided in Title 22, section 1558, and Title 28-A, section 803, a copy of the complaint and summons must be served on the defendant either by personal delivery in hand, by leaving it with a person of suitable age or discretion at the defendant's dwelling place or usual place of abode or by sending it by certified mail to the defendant's last known address. If a summons is required, it must inform the defendant of the time limit for filing an answer to the complaint and the consequences of failing to do so. The complaint must contain a conclusion indicating the violation of a statute or rule, citing the statute or rule violated and stating the relief requested.

[2001, c. 471, Pt. D, §6 (AMD) .]

3. Witness sworn. At the hearing, before any testimony is received, the presiding judge shall swear in the witness.

[1999, c. 547, Pt. B, §10 (NEW); 1999, c. 547, Pt. B, §80 (AFF) .]

4. Official record. The presiding judge shall prepare an official record, including testimony and exhibits, in each case but need not have a transcript of the testimony prepared unless required for rehearing or appeal. The record of the hearing may be taken by stenographic notes or by mechanical or electronic recording.

[1999, c. 547, Pt. B, §10 (NEW); 1999, c. 547, Pt. B, §80 (AFF) .]

5. Disposition by agreement. On approval of the presiding judge, disposition of any case may be made by agreement or consent decree.

[1999, c. 547, Pt. B, §10 (NEW); 1999, c. 547, Pt. B, §80 (AFF) .]

6. Emergency proceedings. The District Court has jurisdiction to revoke temporarily or suspend a license without notice or hearing upon the verified complaint or complaint accompanied by affidavits of a licensing agency or the Attorney General. The verified complaint or complaint accompanied by affidavits must demonstrate that summary action is necessary to prevent an immediate threat to the public health, safety or welfare. Upon issuance of an order revoking or suspending a license under this section, the District Court shall schedule a hearing on the agency's complaint. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Any order temporarily suspending or revoking a license expires within 30 days of issuance unless renewed by the court after such hearing as it may determine necessary.

This subsection may not be considered to abridge or affect the jurisdiction of the Superior Court or District Court to issue injunctive relief or to exercise such other powers as may be authorized by law or rule of the court.

[2011, c. 559, Pt. A, §3 (AMD) .]

7. Decisions. After hearing, on default or by agreement of the parties, the District Court may suspend, revoke or modify the license of any party properly served with process or, if the applicable law so provides, the court may order issuance of a license to an applicant according to the terms of the applicable law. The District Court may take any other action with relation to the party that could have been taken before the enactment of former section 1155 by the agency involved in the hearing.

Every final decision of the District Court must be in writing or stated in the record and must include findings of fact and conclusions of law sufficient to apprise the parties and any interested member of the public of the basis for the decision. A copy of the decision must be delivered or promptly mailed to each party to the proceeding or their representatives of record. Written notice of the party's rights to review of the decision and of the action required and the time within which that action must be taken in order to exercise the right of review must be given to each party together with the decision.

[1999, c. 547, Pt. B, §10 (NEW); 1999, c. 547, Pt. B, §80 (AFF) .]

8. Fines. Notwithstanding any other provisions of this chapter, the District Court may impose a fine of a specific sum, which may not be less than \$50 nor more than \$1,500 for any one offense or as may be provided by the statutes relating to the licensing question. Such a fine may be imposed instead of or in addition to any suspension, revocation or modification of a license by the court. Section 1057 applies to any fine imposed by this subsection.

[1999, c. 547, Pt. B, §10 (NEW); 1999, c. 547, Pt. B, §80 (AFF) .]

9. Rules of procedure. The Supreme Judicial Court may adopt, amend, repeal or modify rules governing the forms of complaints, pleadings and motions and the practice, procedure and evidence in and appeals from the District Court. The rules may not abridge or enlarge the substantive rights of any litigant. The rules must be filed with the Secretary of State in the manner required by Title 5, section 8056, subsection 1, paragraph B.

[1999, c. 547, Pt. B, §10 (NEW); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1999, c. 547, §B10 (NEW). 1999, c. 547, §B80 (AFF). 2001, c. 471, §D6 (AMD). 2011, c. 559, Pt. A, §3 (AMD).

Chapter 6: LAW LIBRARIES

§191. STATE COURT LIBRARY COMMITTEE

(REPEALED)

SECTION HISTORY

1981, c. 510, §1 (NEW). 1983, c. 812, §9 (AMD). 1989, c. 503, Pt. B, §7 (AMD). 1993, c. 375, §1 (AMD). 2001, c. 250, §1 (AMD). 2011, c. 204, §1 (AMD). 2013, c. 533, §1 (RP).

§192. PERSONNEL

The State Court Administrator shall employ and shall supervise a professionally trained person, who is designated the State Court Library Supervisor. The supervisor has general supervision of the professional functions of all county law libraries and shall visit all libraries whenever necessary, meet with county law library committees, coordinate activities with the court administrator's offices, advise staff members of the clerks of courts and carry out any additional duties assigned by the State Court Administrator. [2013, c. 533, §2 (AMD).]

The law libraries in locations without employees are maintained by the offices of the clerks of courts and the duties of each clerk's office are specified by the State Court Administrator. [2013, c. 533, §2 (AMD).]

SECTION HISTORY

1981, c. 510, §1 (NEW). 2013, c. 533, §2 (AMD).

§193. SYSTEM OF LAW LIBRARIES

There must be a system of law libraries accessible to all citizens within the State. [2013, c. 533, §3 (AMD).]

These libraries must be located in:

Androscoggin County, Auburn;
Aroostook County, Caribou;
Aroostook County, Houlton;
Cumberland County, Portland;
Franklin County, Farmington;
Hancock County, Ellsworth;
Kennebec County, Augusta;
Knox County, Rockland;
Lincoln County, Wiscasset;
Oxford County, South Paris;
Penobscot County, Bangor;
Piscataquis County, Dover-Foxcroft;
Sagadahoc County, Bath;
Somerset County, Skowhegan;
Waldo County, Belfast;
Washington County, Machias; and
York County, Alfred.

[2001, c. 250, §2 (RPR).]

All funds appropriated by the Legislature for the use and benefit of the law libraries must be paid to the Administrative Office of the Courts and must be disbursed by that office. [2013, c. 533, §3 (AMD).]

The libraries located at Bangor and Portland are to serve as regional court law library centers. The State Court Administrator or the State Court Administrator's designee shall allocate specific funds, in addition to the resources received by the other law libraries, to the regional court law library centers in Bangor and Portland to purchase legal resources, library equipment and supplies and necessary personnel. Both regional court libraries must receive the same funds. [2013, c. 533, §3 (AMD).]

All other law libraries must have access to the regional court law library centers for the resources not available locally. [2011, c. 204, §2 (AMD).]

SECTION HISTORY

1981, c. 510, §1 (NEW). 1991, c. 622, §N1 (AMD). 1991, c. 671, §M1 (AMD). 1993, c. 375, §§2,3 (AMD). 1993, c. 375, §5 (AFF). 1995, c. 55, §1 (AMD). 1995, c. 55, §2 (AFF). 2001, c. 250, §2 (RPR). 2011, c. 204, §2 (AMD). 2013, c. 533, §3 (AMD).

§194. DUTIES OF STATE COURT LIBRARY COMMITTEE

(REPEALED)

SECTION HISTORY

1981, c. 510, §1 (NEW). 2013, c. 533, §4 (RP).

§195. COUNTY LAW LIBRARIES

There must be a County Law Library Committee in each county in which a county law library is located. The members of the committee must be appointed or elected by the county bar association, or other governing body, as its bylaws may provide. Membership on the committee need not be restricted to attorneys. The County Law Library Committee shall appoint a chair, a treasurer and a clerk. [2001, c. 250, §3 (AMD).]

SECTION HISTORY

1981, c. 510, §1 (NEW). 2001, c. 250, §3 (AMD).

§196. DUTIES, COUNTY COMMITTEE

The County Law Library Committee shall establish local operating policies, such as, but not limited to, hours, circulation policies and photocopy privileges. Each county committee shall exercise supervision over the expenditures of private and nonstate funds, including endowments, and may use those funds to upgrade its county law library. Each county committee shall determine space requirements. [2013, c. 533, §5 (AMD).]

SECTION HISTORY

1981, c. 510, §1 (NEW). 2001, c. 250, §4 (AMD). 2013, c. 533, §5 (AMD).

§197. DUTIES OF TREASURER AND CLERK

The treasurer of each County Law Library Committee, under the direction of the County Law Library Committee, shall apply all private and nonstate moneys received, and all bequests and gifts, to form and operate a law library. The clerk shall keep an exact record of all the proceedings of the committee. [1981, c. 501, §1 (NEW).]

The treasurer shall, annually, before the last Wednesday in July, deposit in the office of the State Court Administrator a statement of the funds received and expended by the treasurer during the preceding fiscal year. [2013, c. 533, §6 (AMD).]

SECTION HISTORY

1981, c. 510, §1 (NEW). 1981, c. 698, §4 (AMD). 2013, c. 533, §6 (AMD).

§198. RULES

The Supreme Judicial Court may promulgate rules to implement the purposes of this chapter. [1981, c. 501, §1 (NEW).]

SECTION HISTORY

1981, c. 510, §1 (NEW).

Chapter 7: PROBATE COURT

Subchapter 1: GENERAL PROVISIONS

§201. COURTS OF RECORD; SEAL; PUNISHMENT FOR CONTEMPT

Courts of probate are courts of record. Each shall have an official seal, of which the register shall have the custody. They may issue any process necessary for the discharge of their official duties and punish for contempt of their authority.

§202. OATHS AND ACKNOWLEDGMENTS

All oaths required to be taken by personal representatives, trustees, guardians, conservators, or of any other persons in relation to any proceeding in the probate court, or to perpetuate the evidence of the publication of any order of notice, may be administered by the judge or register of probate or any notary public. A certificate thereof, when taken out of court, shall be returned into the registry of probate and there filed. When any person of whom such oath is required, including any parent acknowledging consent to an adoption, resides temporarily or permanently without the State, the oath or acknowledgment may be taken before and be certified by a notary public without the State, a commissioner for the State of Maine or a United States Consul. [1981, c. 456, Pt. A, §5 (AMD).]

SECTION HISTORY

1979, c. 540, §6 (AMD). 1981, c. 456, §A5 (AMD).

§203. RIGHTS OF CLAIMANTS UNDER HEIR

Any person claiming under an heir at law has the same rights as the heir in all proceedings in probate courts, including rights of appeal.

Subchapter 2: JURISDICTION

§251. GENERAL JURISDICTION

Each judge may take the probate of wills and grant letters testamentary or of administration on the estates of all deceased persons who, at the time of their death, were inhabitants or residents of the judge's county or who, not being residents of the State, died leaving estate to be administered in the judge's county, or whose estate is afterwards found therein; and has jurisdiction of all matters relating to the settlement of such estates. A judge may grant leave to adopt children, change the names of persons, appoint guardians for minors and others according to law and has jurisdiction as to persons under guardianship, and as to whatever else is conferred by law, except in cases in which the District Court has jurisdiction over a child pursuant to section 152, subsection 5-A. [2015, c. 2, §1 (COR).]

SECTION HISTORY

RR 2015, c. 2, §1 (COR). 2015, c. 460, §3 (AMD).

§251-A. OTHER PROCEEDINGS INVOLVING PARENTAL RIGHTS; TRANSFER TO DISTRICT COURT

1. Disclosure of orders and proceedings. The judge of probate presiding over any matter involving guardianship, adoption or change of name or another matter involving custody or other parental rights with respect to a minor child shall require all parties to disclose whether they have knowledge of:

A. Any interim or final order then in effect concerning custody or other parental rights with respect to the minor child; [2015, c. 460, §4 (NEW).]

B. Any proceeding involving custody or other parental rights with respect to the minor child currently filed or pending before any court of this State or another state, including the District Court; or [2015 , c. 460 , §4 (NEW) .]

C. Any other related action currently filed or pending before any court of this State or another state, including the District Court. [2015 , c. 460 , §4 (NEW) .]

[2015 , c. 460 , §4 (NEW) .]

2. Transfer to District Court. If in a matter before the Probate Court concerning a minor child a judge of probate becomes aware that a proceeding involving custody or other parental rights with respect to the minor child is pending in the District Court, the judge shall notify the District Court and take appropriate action to facilitate a transfer of the matter to the District Court.

[2015 , c. 460 , §4 (NEW) .]

SECTION HISTORY

2015 , c. 460 , §4 (NEW) .

§252. EQUITY JURISDICTION

The courts of probate shall have jurisdiction in equity, concurrent with the Superior Court, of all cases and matters relating to the administration of the estates of deceased persons, to wills and to trusts which are created by will or other written instrument. Such jurisdiction may be exercised upon complaint according to the usual course of proceedings in civil actions in which equitable relief is sought.

§253. JURISDICTION IN COURT WHERE PROCEEDINGS ORIGINATE

Subject to Title 18-A, sections 1-303 and 3-201, and except as otherwise provided in Title 18-A, sections 5-211 and 5-313, when a case is originally within the jurisdiction of the probate court in 2 or more counties, the one which first commences proceedings therein retains the same exclusively throughout. The jurisdiction assumed in any case, except in cases of fraud, so far as it depends on the residence of any person or the locality or amount of property, shall not be contested in any proceeding whatever, except on an appeal or removal from the probate court in the original case or when the want of jurisdiction appears on the same record. [1979 , c. 540 , §7 (AMD) .]

SECTION HISTORY

1979 , c. 540 , §7 (AMD) .

Subchapter 3: JUDGES

§301. TERMS; VACANCIES; SALARY

Judges of probate are elected or appointed as provided in the Constitution of Maine. Only attorneys at law admitted to the general practice of law in this State and resident in this State may be elected or appointed as judges of probate. Their election is effected and determined as is provided respecting county commissioners; and they enter upon the discharge of their duties on the first day of January following their election; but, when appointed to fill vacancies, their terms commence on their appointment. Vacancies caused by death, resignation, removal from the county, permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or any other reason must be filled as provided in the Constitution of Maine. In the case of a vacancy in the term of a judge of probate who was nominated by primary election before the general election, the judge of probate appointed by the Governor to fill the vacancy until a successor is chosen at election must be enrolled in the same political party as the judge of probate whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made. [1995 , c. 683 , §1 (AMD) .]

Judges of probate in the several counties are entitled to receive annual salaries as set forth in Title 30-A, section 2. [1995, c. 245, §1 (AMD).]

The fees to which judges of probate are entitled by law must be taxed and collected and paid over by the registers of probate to the county treasurers by the 15th day of every month following the month in which they were collected for the use of their counties with the exception of the fees provided in section 304, which must be retained by the judge who collects those fees in addition to the judge's salary. [1995, c. 245, §1 (AMD).]

SECTION HISTORY

1981, c. 40, §1 (AMD). 1987, c. 737, §§C3,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1995, c. 245, §1 (AMD). 1995, c. 683, §1 (AMD).

§302. OFFICERS EXECUTE PROCESSES AND ATTEND COURTS

Sheriffs, their deputies and constables shall execute all legal processes directed to them by any such judge of probate who may, when necessary, require such officer, when not in attendance upon any other court, to attend during the sitting of the probate court, for which he shall be paid as in other courts for similar services.

§303. CONTINUOUS SESSION; RETURN DAY FOR MATTERS REQUIRING PUBLIC NOTICE

Probate court shall always be open in each county for all matters over which it has jurisdiction, except upon days on which by law no court is held, but it shall have certain fixed days and places to be made known by public notification thereof in their respective counties to which all matters requiring public notice shall be made returnable, except as otherwise ordered by the judge. In case of the absence of the judge or vacancy in the office at the time of holding any court, the register or acting register may adjourn the same until the judge can attend or some other probate judge can be notified and attend. [1965, c. 238, (AMD).]

SECTION HISTORY

1965, c. 238, (AMD).

§304. EQUITY AND CONTESTED CASES; TIME AND PLACE OF HEARING

Judges of probate may hold hearings for matters in equity and contested cases at such time and place in the county as the judge of probate may appoint and make all necessary orders and decrees relating thereto, and when hearings are held at other places than those fixed for holding the regular terms of court, the judge shall be allowed, in addition to his regular salary, \$5 per day and actual expenses which shall be paid by the State unless otherwise provided by law.

§305. TERM OF FORT KENT AND CARIBOU PROBATE COURT

The judge of probate in and for the County of Aroostook shall hold a court of probate at least twice in each year at Fort Kent and at least 4 times each year at Caribou in the county. The time for holding the court shall be appointed by the judge and made known by public notification as provided in section 303. [1979, c. 41, (RPR).]

SECTION HISTORY

1979, c. 41, (RPR).

§306. INTERCHANGE OF JUDICIAL DUTIES; EXPENSES

During the sickness, absence from the State or inability of any judge of probate to hold the regular terms of his court, such terms, at his request or that of the register of the county, may be held by the judge of any other county. The judges may interchange service or perform each others' duties when they find it necessary or convenient, and in case of a vacancy in the office of a judge, all necessary terms of the probate court for the county may, at the request of the register, be held by the judge of another county until the vacancy is filled. The orders, decrees and decisions of the judge holding such terms have the same force and validity as if made by the judge of the county in which such terms are held.

When any judge of probate holds court or a hearing in any probate matter, or in equity, in any county other than the one in which he resides, such judge shall be reimbursed by the county in which such court or hearing is held for his expenses actually and reasonably incurred, upon presentation to the county commissioners of said county of a detailed statement of such expenses. [1965, c. 513, §5-A (AMD).]

SECTION HISTORY

1965, c. 513, §§5-A (AMD).

§307. CONFLICT OF INTEREST; TRANSFER OF CASE

When a judge or register of probate is interested in his own right, trust, or in any other manner, or is within the degree of kindred, by which in law he may, by possibility, be heir to any part of the estate of the person deceased, or is named as executor, trustee or guardian of minor children in the will of any deceased resident of the county, such estate shall be settled in the probate court of any adjoining county, which shall have as full jurisdiction thereof as if the deceased had died therein. If his interest arises after jurisdiction of such estate has been regularly assumed or existed at the time of his appointment to office, and in all cases where an executor, administrator, guardian or trustee, whose trust is not fully executed, becomes judge or register of probate for the county in which his letters were granted, further proceedings therein shall be transferred to the probate court in any adjoining county and there remain till completed, as if such court had had original jurisdiction thereof, unless said disability is removed before that time. Whenever in any case within this section the disability of the judge or register is removed before the proceedings have been fully completed, the proceedings shall then be transferred to the probate court in the county of original jurisdiction or to the probate court which otherwise would have had jurisdiction. In all such cases the register in such adjoining county shall transmit copies of all records relating to such estate to the probate office of the county where such estate belongs, to be there recorded.

Nothing in this section shall be deemed to require removal to another county by reason of the judge or register of probate having been named as executor, trustee or guardian of minor children in a will, provided he receives no benefit from the will and the record of the court discloses the filing of his declination to act as such executor, trustee or guardian, if no objection is raised by any interested party at the hearing on the petition for probate of the will.

A judge is considered to be interested in an estate or other probate proceeding, including adoptions, if the judge or a person with whom the judge practices law represents a party in the proceeding. When such representation begins, the judge shall transfer the matter as provided in this section, after which transfer the judge or the person with whom the judge practices law may continue such representation, except that, after a formal probate proceeding has been initiated before a judge, that judge is forever barred from assuming representation of a party in that same proceeding without regard to whether or not the proceeding has been transferred. A petition requesting a transfer and the petition related to the matter being transferred filed simultaneously are not considered formal probate proceedings for the purposes of this paragraph. [1991, c. 697, §1 (NEW).]

SECTION HISTORY

1991, c. 697, §1 (AMD).

§308. CERTIFICATION OF UNFINISHED ACTS OF PREDECESSOR JUDGE

Every judge, upon entering on the duties of his office, shall examine the records, decrees, certificates and all proceedings connected therewith which his predecessor left unsigned or unauthenticated. If he finds them correct, he shall sign and authenticate them and they shall then be as valid to all intents and purposes as if such duty had been done by his predecessor while in office.

§309. JUDGE NOT TO COUNSEL OR DRAFT DOCUMENTS

No judge of probate shall have a voice in judging and determining nor be attorney or counselor in or out of court in any civil action or matter which depends on or relates to any sentence or decree made by him in his office, nor in any civil action for or against any executor, administrator, guardian or trustee under any last will and testament, as such, within his county. Any process or proceeding commenced by him in the probate court for his county in violation of this section is void, and he is liable to the party injured in damages. No judge of probate shall draft or aid in drafting any document or paper which he is by law required to pass upon.

§310. PERPETUAL CARE OF CEMETERY LOTS BY ORDER

Judges of probate, in any case in which an estate is under their jurisdiction for probate, shall have the power to order that an appropriate amount out of the estate be set aside for perpetual care and suitable memorials for the cemetery lot in which the deceased is buried, and to order special care of such lots when the conditions and size of the estate seem to warrant such order.

§311. CONTRACTS FOR SUPPORT

All contracts for support for life shall be approved by the Probate Court in the county in which the support for life is to be rendered. The Probate Court shall grant approval after such reasonable notice as the court shall determine to be appropriate, if the court shall find, after hearing, that the contract is just and equitable under all of the circumstances. [1969, c. 434, (NEW).]

A contract or agreement for support for life without such Probate Court approval shall not be received in evidence unless the person offering the contract or agreement shall establish by a preponderance of the evidence that the contract or agreement is just and equitable under all of the circumstances. [1969, c. 434, (NEW).]

This section shall not apply to such contracts or agreements between persons related within the 3rd degree. [1969, c. 434, (NEW).]

SECTION HISTORY

1969, c. 434, (NEW).

§312. POLITICAL ACTIVITIES OF JUDGES OF PROBATE

As a candidate for the elective office of judge of probate or as an elected judge, a person seeking or holding the office of judge of probate may engage in any political activity that would be lawful for a candidate for any other elected county office or for an incumbent elected county official. Any such judge may hold any other elected office or offices not made incompatible by the Constitution of Maine. [1993, c. 695, §1 (NEW).]

SECTION HISTORY

1993, c. 695, §1 (NEW).

Subchapter 4: RULES OF PRACTICE**§351. PROCEDURAL RULES; BLANKS; REVISION; APPROVAL
(REPEALED)****SECTION HISTORY**

1971, c. 94, §§1,2 (AMD). 1979, c. 540, §§7-A (RP).

§352. BLANKS AND RECORDS PROVIDED

Each county shall provide all necessary printed blanks and record books for its probate courts and courts of insolvency, and said record books may be printed to correspond with the printed blanks.

Subchapter 5: APPEALS

§401. APPELLATE JURISDICTION; SPECIAL GUARDIANS; APPEAL TO LAW COURT

(REPEALED)

SECTION HISTORY

1979, c. 540, §7-B (RP).

§402. BOND ON APPEAL; SERVICE OF REASONS FOR APPEAL

(REPEALED)

SECTION HISTORY

1979, c. 540, §7-B (RP).

§403. ALLOWANCE OF APPEAL ACCIDENTALLY OMITTED

(REPEALED)

SECTION HISTORY

1979, c. 540, §7-B (RP).

§404. FAILURE TO PROSECUTE APPEAL

(REPEALED)

SECTION HISTORY

1979, c. 540, §7-B (RP).

§405. STAY OF PROCEEDINGS ON APPEAL

(REPEALED)

SECTION HISTORY

1979, c. 540, §7-B (RP).

§406. HEARING ON APPEAL

(REPEALED)

SECTION HISTORY

1973, c. 625, §11 (AMD). 1979, c. 540, §7-B (RP).

Chapter 8: ALCOHOL AND DRUG TREATMENT PROGRAMS

§421. ESTABLISHMENT

1. Programs. The Judicial Department may establish alcohol and drug treatment programs in the Superior Courts and District Courts and may adopt administrative orders and court rules to govern the practice, procedure and administration of these programs. Alcohol and drug treatment programs must include local judges and must be community based and operated separately from juvenile drug courts.

[1999, c. 780, §1 (NEW) .]

2. Goals. The goals of the alcohol and drug treatment programs authorized by this chapter include the following:

- A. To reduce alcohol and drug abuse and dependency among criminal offenders; [1999, c. 780, §1 (NEW) .]
- B. To reduce criminal recidivism; [1999, c. 780, §1 (NEW) .]
- C. To increase personal, familial and societal accountability of offenders; [1999, c. 780, §1 (NEW) .]
- D. To promote healthy and safe family relationships; [1999, c. 780, §1 (NEW) .]
- E. To promote effective interaction and use of resources among justice system personnel and community agencies; and [1999, c. 780, §1 (NEW) .]
- F. To reduce the overcrowding of prisons. [1999, c. 780, §1 (NEW) .]

[1999, c. 780, §1 (NEW) .]

3. Collaboration. The following shall collaborate with and, to the extent possible, provide financial assistance to the Judicial Department in establishing and maintaining alcohol and drug treatment programs:

- A. District attorneys, the Department of the Attorney General and statewide organizations representing prosecutors; [1999, c. 780, §1 (NEW) .]
- B. Defense attorneys, including statewide organizations representing defense attorneys; [1999, c. 780, §1 (NEW) .]
- C. The Department of Corrections; [1999, c. 780, §1 (NEW) .]
- D. The Department of Health and Human Services; [1999, c. 780, §1 (NEW); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]
- E. The Department of Public Safety; [1999, c. 780, §1 (NEW) .]
- F. The Department of Education; [1999, c. 780, §1 (NEW) .]
- G. The business community; [1999, c. 780, §1 (NEW) .]
- H. Local service agencies; and [1999, c. 780, §1 (NEW) .]
- I. Statewide organizations representing drug court professionals. [1999, c. 780, §1 (NEW) .]

[1999, c. 780, §1 (NEW); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1999, c. 780, §1 (NEW). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV) .

§422. PROGRAMS

1. Coordinator of Diversion and Rehabilitation Programs. The judicial branch shall employ a Coordinator of Diversion and Rehabilitation Programs. The Coordinator of Diversion and Rehabilitation Programs is responsible for helping the judicial branch establish, staff, coordinate, operate and evaluate diversion and rehabilitation programs in the courts.

[2003, c. 711, Pt. A, §1 (RPR) .]

2. Pass-through services. The Administrative Office of the Courts, with the assistance of the Coordinator of Diversion and Rehabilitation Programs, may enter into cooperative agreements or contracts with:

A. The Department of Health and Human Services or other federal-licensed treatment providers or state-licensed treatment providers to provide substance abuse services for alcohol and drug treatment program participants. To the extent possible, the alcohol and drug treatment programs must access existing substance abuse treatment resources for alcohol and drug treatment program participants; [2011, c. 657, Pt. AA, §2 (AMD).]

B. The Department of Corrections, Division of Community Corrections or other appropriate organizations to provide for supervision of alcohol and drug treatment program participants; [1999, c. 780, §1 (NEW).]

C. The Department of Corrections or other appropriate organizations to provide for drug testing of alcohol and drug treatment program participants; [1999, c. 780, §1 (NEW).]

D. Appropriate organizations to provide for a drug court manager at each alcohol and drug treatment program location; [2003, c. 711, Pt. A, §2 (AMD).]

E. Appropriate organizations and agencies for training of alcohol and drug treatment program staff and for evaluation of alcohol and drug treatment program operations; [2003, c. 711, Pt. A, §2 (AMD).]

F. Appropriate local, county and state governmental entities and other appropriate organizations and agencies to encourage the development of diversion and rehabilitation programs; and [2003, c. 711, Pt. A, §2 (NEW).]

G. Appropriate organizations and agencies for the provision of medical, educational, vocational, social and psychological services, training, counseling, residential care and other rehabilitative services designed to create, improve or coordinate diversion or rehabilitation programs. [2003, c. 711, Pt. A, §2 (NEW).]

[2011, c. 657, Pt. AA, §2 (AMD) .]

SECTION HISTORY

1999, c. 780, §1 (NEW). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV). 2003, c. 711, §§A1,2 (AMD). 2011, c. 657, Pt. AA, §2 (AMD).

§423. REPORTS

The Judicial Department shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by February 15th annually on the establishment and operation of alcohol and drug treatment programs in the courts. The report must cover at least the following: [2013, c. 159, §8 (AMD).]

1. Training. Judicial training;

[1999, c. 780, §1 (NEW) .]

2. Locations. Locations in which the alcohol and drug treatment programs are operated in each prosecutorial district;

[1999, c. 780, §1 (NEW) .]

3. Participating judges and justices. Judges and justices participating in the alcohol and drug treatment programs at each location;

[1999, c. 780, §1 (NEW) .]

4. Community involvement. Involvement of the local communities, including the business community and local service agencies;

[1999, c. 780, §1 (NEW) .]

5. Education. Educational components;

[1999, c. 780, §1 (NEW) .]

6. Existing resources. Use of existing substance abuse resources;

[1999, c. 780, §1 (NEW) .]

7. Statistics. Statistical summaries of each alcohol and drug treatment program;

[1999, c. 780, §1 (NEW) .]

8. Collaboration. Demonstration of the collaboration required under section 421, subsection 3, including agreements and contracts, the entities collaborating with the Judicial Department, the value of the agreements and contracts and the amount of financial assistance provided by each entity; and

[1999, c. 780, §1 (NEW) .]

9. Evaluation of programs. Evaluation of alcohol and drug treatment programs individually and overall.

[1999, c. 780, §1 (NEW) .]

SECTION HISTORY

1999, c. 780, §1 (NEW). 2013, c. 159, §8 (AMD).

Chapter 8-A: MENTAL HEALTH TREATMENT COURTS

§431. MENTAL HEALTH TREATMENT COURTS

1. Treatment courts; funding. The Judicial Department may seek and receive grants to establish mental health treatment courts.

[2001, c. 520, §1 (NEW) .]

2. Report. Before implementing a mental health treatment court, the Judicial Department shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters on at least:

A. The funding mechanism and the expected duration of the funding; [2001, c. 520, §1 (NEW) .]

B. The plans for the mental health treatment court, which must include an evaluation component to determine the efficacy of the treatment court on short-term and long-term bases; [2001, c. 520, §1 (NEW) .]

C. The potential fiscal effects on the State; and [2001, c. 520, §1 (NEW) .]

D. Recommended legislation to implement the mental health treatment court, if any. [2001, c. 520, §1 (NEW) .]

[2001, c. 520, §1 (NEW) .]

SECTION HISTORY

2001, c. 520, §1 (NEW) .

Chapter 8-B: VETERANS TREATMENT COURTS

§433. VETERANS TREATMENT COURTS

1. Definition. As used in this section, unless the context otherwise indicates, "veterans treatment court" means a specialized sentencing docket in select criminal cases in which the defendant is a veteran or member of the United States Armed Forces to enable veterans agencies and social services agencies to provide treatment for that defendant. The court does not provide treatment but contracts or collaborates with experienced and expert treatment providers.

[2011, c. 500, §1 (NEW) .]

2. Chief Justice may establish. The Chief Justice of the Supreme Judicial Court may establish veterans treatment courts for veterans and members of the United States Armed Forces. The Supreme Judicial Court may adopt administrative orders and court rules of practice and procedure as necessary.

[2011, c. 500, §1 (NEW) .]

3. Federal funding; contracts; cooperative agreements. The State Court Administrator, district attorneys, the Department of the Attorney General, the Department of Corrections, the Department of Defense, Veterans and Emergency Management, the Department of Public Safety, the Department of Health and Human Services and private service agencies may seek federal funding as it becomes available for the establishment, maintenance and expansion of veterans treatment courts and for the provision by participating agencies of treatment to participating veterans. The Administrative Office of the Courts may enter into contracts and cooperative agreements with the departments and agencies to provide treatment and other social services to participants. The departments and agencies shall collaborate and, to the extent possible, provide financial and other assistance to the judicial branch in order to establish and maintain veterans treatment courts.

[2011, c. 500, §1 (NEW) .]

SECTION HISTORY

2011, c. 500, §1 (NEW) .

Chapter 9: MAINE CRIMINAL JUSTICE SENTENCING INSTITUTE

§451. ESTABLISHMENT

(REPEALED)

SECTION HISTORY

1965, c. 240, §1 (AMD). 1975, c. 771, §21 (AMD). 1979, c. 36, (AMD). 1983, c. 631, (AMD). 1983, c. 812, §10 (AMD). 1985, c. 506, §§A1-A (RPR). 1985, c. 779, §6 (AMD). 1989, c. 503, §B8 (AMD). 1989, c. 891, §A8 (AMD). 1993, c. 401, §1 (AMD). 1997, c. 134, §2 (RP).

§451-A. COURTS' FUTURE IMPLEMENTATION BY JUDICIAL COUNCIL

(REPEALED)

SECTION HISTORY

1993, c. 401, §2 (NEW). 1997, c. 134, §3 (RP).

§452. REPORTS

(REPEALED)

SECTION HISTORY

1997, c. 134, §4 (RP).

§453. EXPENSES

(REPEALED)

SECTION HISTORY

1965, c. 240, §2 (AMD). 1983, c. 812, §11 (RPR). 1989, c. 891, §A9 (AMD). 1997, c. 134, §5 (RP).

§454. MAINE CRIMINAL JUSTICE SENTENCING INSTITUTE

There is established a Maine Criminal Justice Sentencing Institute under the administrative supervision of the State Court Administrator to provide a continuing forum for the regular discussion of the most appropriate methods of sentencing convicted offenders and adjudicated juveniles by judges in the criminal justice system, prosecutors, law enforcement and correctional personnel, representatives of advisory and advocacy groups and such representatives of the defense bar as the Chief Justice of the Supreme Judicial Court may invite. All Supreme Judicial Court, Superior Court and District Court Judges, all District Attorneys and attorneys within the Criminal Division of the Office of the Attorney General are, and such other criminal justice personnel as the Chief Justice of the Supreme Judicial Court may authorize may be, members of the institute. [1999, c. 547, Pt. B, §11 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

When sufficient funding is allocated by the Legislature, the institute shall meet, at the call of the Chief Justice of the Supreme Judicial Court, for a 2-day period to discuss recommendations for changes in the sentencing authority and policies of the State's criminal and juvenile courts, in response to current law enforcement problems and the available alternatives for criminal and juvenile rehabilitation within the State's correctional system. Inasmuch as possible the deliberations of the institute must be open to the general public. [2013, c. 159, §9 (AMD).]

Members of the institute are not entitled to receive compensation for their services, but are allowed, out of any appropriation or other fund made available for the purpose, such expenses for clerical and other services, travel and incidentals as the Chief Justice of the Supreme Judicial Court may authorize. [1997, c. 134, §6 (AMD).]

SECTION HISTORY

1975, c. 610, §1 (NEW). 1975, c. 650, (AMD). 1979, c. 47, §§1,2 (AMD). 1989, c. 925, §1 (AMD). 1997, c. 134, §6 (AMD). 1999, c. 547, §B11 (AMD). 1999, c. 547, §B80 (AFF). 2013, c. 159, §9 (AMD).

Chapter 10: JUDICIAL CONFERENCE OF MAINE

§471. JUDICIAL CONFERENCE OF MAINE

There shall be a Judicial Conference of Maine composed of judges and justices who shall advise and consult with the Supreme Judicial Court and the Chief Justice on matters affecting the administration of the Judicial Department, who shall review and discuss proposals from the Chief Justice and the State Court Administrator which affect the administration of the Judicial Department and who shall meet at least once each year for that purpose. [1977, c. 544, §11 (AMD).]

No member of said conference shall receive any compensation for his services, but said conference and the several members thereof shall be allowed, out of judicial appropriation, such expenses for clerical and other services and travel incidentals as the State Court Administrator shall approve. [1975, c. 408, §19-A (NEW).]

SECTION HISTORY

1975, c. 408, §§19-A (NEW). 1977, c. 544, §11 (AMD).

Chapter 11: REFEREES, MASTERS AND AUDITORS

§501. APPOINTMENT; FEES

In all cases in the Supreme Judicial or in the Superior Court in which the court appoints one or more persons, not exceeding 3, as referees, masters or auditors, to hear the same, their fees and necessary expenses, including stenographic services as determined by the Chief Justice or the Chief Justice's designee, must be paid by the State on presentation of the proper certificate of the clerk of courts for the county in which such case is pending, or by such of the parties, or out of any fund or subject matter of the action, which is in the custody and control of the court, or by apportionment among such sources of payment, as the court may direct. The amount thereof must be fixed by the court upon the coming in of the report. These referees, masters and auditors shall notify the parties of the time and place of hearing and have power to adjourn. Witnesses may be summoned and compelled to attend and may be sworn by the referees, masters or auditors. When there is more than one referee, master or auditor, all must hear, but a majority may report, stating whether all did hear. Their report may be recommitted. They may be discharged and others appointed. [2009, c. 166, §1 (AMD).]

No fee or compensation other than necessary expenses may be paid any Justice of the Supreme Judicial or of the Superior Court for services as referee, master or auditor, but this provision does not apply to an Active Retired Justice. [2009, c. 166, §1 (AMD).]

No per diem fee, other than necessary expenses, may be paid any Official Court Reporter for services in these cases. [2009, c. 166, §1 (AMD).]

A referee appointed to hear a dispute concerning real property must report the referee's decision within one year of appointment by the court unless good cause for extending this period is shown. [2009, c. 166, §1 (NEW).]

SECTION HISTORY

1975, c. 383, §5 (AMD). 1975, c. 408, §20 (AMD). 1977, c. 114, §§10-12 (AMD). 2009, c. 166, §1 (AMD).

Chapter 13: CLERKS OF JUDICIAL COURTS

§551. CLERKS OF THE JUDICIAL COURTS; APPOINTMENTS

For each county, or if the Supreme Judicial Court has by rule established judicial regions, for each judicial region, the Chief Justice of the Superior Court shall appoint clerks as necessary to serve the Superior Court. A clerk of the District Court may also serve as the clerk of the Superior Court. If the business of any county or judicial region does not require the full-time service of a clerk, the Chief Justice of the Superior Court may appoint a part-time clerk for that county or region. Whenever a clerk is absent or temporarily unable to perform the duties of clerk and an existing or immediate session of the court requires it, the Chief Justice of the Superior Court may designate a clerk pro tempore who has the same powers and duties as the clerk. The clerks of the Superior Court shall also serve in their respective counties or judicial regions as clerks of the Supreme Judicial Court as needed. [1995, c. 560, Pt. I, §15 (AMD).]

SECTION HISTORY

1967, c. 419, §1 (RPR). 1969, c. 229, (RPR). 1975, c. 254, §1 (RPR). 1975, c. 408, §21 (RPR). 1975, c. 735, §§8,9 (AMD). 1975, c. 735, §7 (RP). 1983, c. 131, §2 (AMD). 1985, c. 68, §1 (AMD). 1995, c. 560, §115 (AMD).

§552. MILITARY OR NAVAL SERVICE

(REPEALED)

SECTION HISTORY

1975, c. 254, §2 (RP).

§553. BOND

(REPEALED)

SECTION HISTORY

1973, c. 625, §12 (AMD). 1981, c. 470, §A5 (RP).

§554. ACCOUNTING BY CLERKS

Clerks of judicial courts shall account monthly for all fees received by them or payable to them by virtue of their office, except those portions of fees collected for passports and naturalization proceedings that are payable to the Federal Government, specify the items and pay the whole amount of the same to the Treasurer of State at such times and in such manner as the Chief Justice of the Superior Court or the Chief Justice's designee from time to time specifies. [2015, c. 44, §2 (AMD).]

SECTION HISTORY

1965, c. 330, (AMD). 1971, c. 544, §9 (AMD). 1975, c. 254, §3 (RP). 1975, c. 383, §6 (AMD). 1975, c. 408, §23 (AMD). 1975, c. 735, §10 (RPR). 1985, c. 68, §2 (AMD). 1991, c. 132, §3 (AMD). 2015, c. 44, §2 (AMD).

§555. FEE SCHEDULE

The Supreme Judicial Court shall have the authority to prescribe rules establishing the fees of clerks of the judicial courts. [1979, c. 663, §10 (RPR).]

SECTION HISTORY

1965, c. 256, (AMD). 1973, c. 355, (AMD). 1979, c. 425, §2 (RPR).
1979, c. 541, §A13 (AMD). 1979, c. 663, §10 (RPR).

§556. ACCOUNT FOR MONEYS RECEIVED; DEPOSITORY; ACCOUNTS VERIFIED; DEPOSITS IN NAME OF COURT; FORFEITURE

The clerk shall keep a true and exact account of all moneys which he receives or is entitled to receive for services by virtue of his office as clerk of the Superior or Supreme Judicial Courts and shall pay the same to the Treasurer of State. All moneys belonging to the county or State respectively shall be paid within 30 days after they are received by him, in such manner as the Chief Justice or his designee shall from time to time specify. If, in either case, he neglects to do so, he shall pay 25% interest thereon until paid. Upon the county treasurer's or Treasurer of State's notice of any known delinquency, the clerk's bond shall then be sued. [1975, c. 735, §11 (RPR).]

Proceeds of all sales of property made under the judgment or decree of the Supreme Judicial Court or of the Superior Court and any and all other sums of money from whatever source derived in civil proceedings coming into the custody of the Supreme Judicial Court or of the Superior Court shall be deposited in such depository as the court having custody of such money shall designate, and shall be withdrawn therefrom upon order of the clerk of courts, countersigned by any Justice of the Supreme Judicial Court or of the Superior Court. Any justice of either of the courts shall designate some proper depository for the funds referred to and such designation shall be minuted on the docket of the court. Clerks of courts in the several counties shall keep a regular record containing the account of such funds showing the deposits and all accumulations thereof and the amounts withdrawn therefrom, specifying the date of such withdrawal and the case to which such matters relate. All deposits shall be in the name of the beneficiary with the clerk of court designated as custodian. [1989, c. 501, Pt. P, §4 (AMD).]

Whenever any of these funds are ordered by the courts to be paid to a person entitled to these funds, all accrued interest shall be paid to the claimant less a 5% fee based on the total proceeds, unless otherwise ordered by the court. Whenever any of these funds remain unclaimed for 20 years from the date when payable under the court judgment or decree, the clerk shall obtain an order from the court, under whose judgment or decree these funds were placed in the clerk's custody, that a comprehensive abstract of the facts be advertised for 3 weeks successively in a newspaper of general circulation published in the county, and if no one appears to claim these funds within 60 days after date of the last publication, the funds shall become forfeited to the State and be paid by the clerk to the Treasurer of State. That portion of this section providing for the forfeiture of unclaimed funds shall apply to funds held by the clerk of courts for 20 years or more prior to September 16, 1961. [1989, c. 501, Pt. P, §5 (AMD).]

SECTION HISTORY

1975, c. 383, §7 (AMD). 1975, c. 408, §24 (AMD). 1975, c. 735, §11 (AMD). 1989, c. 501, §§P4,P5 (AMD).

§557. RECEIPT AND DISCHARGE OF FINES AND COSTS VOLUNTARILY PAID

The clerk shall receive all fines, forfeitures and bills of costs imposed or accruing to the use of the State when paid or tendered to him before a precept is issued to enforce collection, give discharges therefor and enter them of record.

§558. ADMINISTRATION OF OATHS

Clerks of courts may administer oaths required by law unless another officer is specially required to do it.

§559. COMPLETION OF RECORDS OF DECEASED CLERK

Under direction of the Superior Court, the clerk shall complete unfinished records of a former clerk deceased, when from entries on the dockets and papers on file it sufficiently appears what judgment was rendered. Such record, when approved by the court, is valid.

§560. DUTIES AS TO LISTS OF MAGISTRATES, DISCHARGES OF SOLDIERS AND SEAMEN; FILES OF STATE PAPER

(REPEALED)

SECTION HISTORY

1979, c. 13, §5 (RP).

§561. TAKING ILLEGAL FEES

A clerk who exacts or receives more than his lawful fees commits a civil violation for which a forfeiture of \$50 may be adjudged. [1977, c. 696, §24 (RPR).]

SECTION HISTORY

1977, c. 696, §24 (RPR).

§562. DEPUTIES; OATH AND BOND; CLERK PRO TEMPORE

(REPEALED)

SECTION HISTORY

1967, c. 544, §6 (AMD). 1969, c. 56, (AMD). 1969, c. 504, §§3-A (AMD). 1975, c. 254, §4 (RP). 1975, c. 383, §§8,9 (AMD). 1975, c. 408, §25 (AMD). 1975, c. 735, §12 (RP).

§563. RECORD OF CIVIL CASES

After the rendition of final judgment or decree in any civil action, the clerk shall, as soon as may be, make such a record thereof in short form, except in such specific instances as the court by general rule or special order may direct. If either party files a request and tenders the fees therefor, a full, extended record shall be made. The court may establish the form of such short form record and full, extended record.

§564. RECORD OF CRIMINAL OR TRAFFIC INFRACTION CASES; CERTAIN CONVICTIONS OR ADJUDICATIONS NOT CRIMINAL RECORDS

In indictments, clerks shall make records of the process, proceedings, judgment and sentence as the Supreme Judicial Court may prescribe by rule. In criminal prosecutions or civil violation proceedings brought up by appeal from inferior courts, clerks shall make records of the process, proceedings, judgment and sentence as the Supreme Judicial Court may prescribe by rule. [1977, c. 114, §13 (RPR).]

Convictions for violation of the fish and wildlife laws or motor vehicle traffic laws or municipal ordinances where the fine imposed does not exceed \$100 or adjudications for violations constituting traffic infractions shall not be deemed to constitute a criminal record against any person so convicted or adjudicated. This section shall not exempt any court from filing court abstracts as now required by law. [1977, c. 114, §13 (RPR).]

SECTION HISTORY

1975, c. 430, §19 (AMD). 1975, c. 731, §14 (AMD). 1977, c. 114, §13 (RPR).

§565. EXAMINATION AND CORRECTION OF RECORDS

The Chief Justice of the Superior Court may cause the records of each clerk to be examined and when found deficient, direct them to be immediately made or corrected, and when such order is not obeyed, the fact of such deficiency shall be certified to the Treasurer of State, who shall cause the clerk's bond to be sued. [1985, c. 68, §3 (AMD).]

SECTION HISTORY

1985, c. 68, §3 (AMD).

§566. DISPOSAL OF MONEY COLLECTED BY ACTION ON CLERK'S BOND

The money recovered in such action shall be applied under direction of the court, to complete the deficient records. If more than sufficient, the balance inures to the State. If not sufficient, the balance may be recovered by the Treasurer of State in an action founded on the bond and facts.

§567. NO RECORDING OFFICER TO BE ATTORNEY OR SUE IN OWN COURT NOR DRAFT NOR AID IN DRAFTING PAPER TO BE RECORDED

No clerk, register or recording officer of any court of the State shall be attorney or counselor in any civil action or matter pending in that court; neither shall he commence actions to be entered therein, nor draft nor aid in drafting any document or paper which he is by law required to record, in full or in part. Violation of this section is a civil violation for which a forfeiture not to exceed \$100 may be adjudged. Notwithstanding provisions of this section, clerks may aid litigants in the preparation of small claims filings. Nothing shall prevent the clerk from rendering assistance of a general nature to the bar or the public. [1977, c. 696, §25 (AMD).]

SECTION HISTORY

1975, c. 383, §10 (AMD). 1975, c. 408, §26 (AMD). 1977, c. 78, §3 (RPR). 1977, c. 696, §25 (AMD).

§568. DUTIES OF CLERKS AS TO RECORDS; FEES

All clerks of courts shall receive and safely keep all such records and papers lodged in their offices and give attested copies thereof, for which they shall receive the same fees as a notary. Such copies shall be as valid as if certified by notaries.

§569. CLERKS; TAKING OF BAIL AUTHORIZED

(REPEALED)

SECTION HISTORY

1965, c. 356, §7 (NEW). 1987, c. 758, §4 (RP).

§570. EXECUTIVE CLERK OF THE SUPREME JUDICIAL COURT

The Chief Justice of the Supreme Judicial Court shall appoint an executive clerk of that court, whose authority, functions and duties shall be prescribed from time to time by the Supreme Judicial Court by rule or administrative order. The executive clerk of the Supreme Judicial Court may administer oaths and may sign and issue summonses, writs and other process in the name of the State and under the seal of the court. [1985, c. 68, §4 (NEW).]

SECTION HISTORY

1985, c. 68, §4 (NEW).

Chapter 15: REPORTERS OF DECISIONS AND TESTIMONY

Subchapter 1: REPORTERS IN THE SUPREME AND SUPERIOR COURTS

§651. APPOINTMENT AND DUTIES; SALARY AND EXPENSES

(REPEALED)

SECTION HISTORY

1965, c. 512, §1 (AMD). 1967, c. 470, §1 (AMD). P&SL 1969, c. 197, §D2 (AMD). 1969, c. 203, (AMD). 1969, c. 480, (AMD). 1969, c. 590, §4 (AMD). 1971, c. 382, (AMD). 1971, c. 505, (AMD). 1973, c. 578, (AMD). 1973, c. 599, §3 (AMD). 1973, c. 788, §7 (AMD). 1975, c. 383, §11 (AMD). 1975, c. 408, §§27,27-A (AMD). 1975, c. 430, §20 (AMD). 1977, c. 208, §1 (RPR). 1981, c. 647, §§2,3 (AMD). 1987, c. 152, (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 528, §E2 (RP). 1991, c. 591, §E2 (RP).

§651-A. PRODUCTION OF REVIEWABLE RECORD

The Supreme Judicial Court shall prescribe rules that ensure the production of a reviewable record of proceedings before all state courts within the Judicial Department. [1991, c. 528, Pt. E, §3 (NEW); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. E, §3 (NEW).]

SECTION HISTORY

1991, c. 528, §E3 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §E3 (NEW).

§652. APPROVAL AND PAYMENT OF REPORTERS' EXPENSES

(REPEALED)

SECTION HISTORY

1975, c. 383, §12 (RPR). 1975, c. 408, §28 (RPR). 1975, c. 735, §13 (RP). 1977, c. 208, §2 (RPR). 1991, c. 528, §RRR (AFF). 1991, c. 528, §E4 (RP). 1991, c. 591, §E4 (RP).

§653. AUTHENTICATION OF EVIDENCE

In all cases coming before the Law Court from the Supreme Judicial Court or from the Superior Court in which a copy of the evidence is required by statute, rule of court or order of the presiding justice, a certificate signed by the Official Court Reporter or a transcriber of an electronically recorded record, stating that the report furnished by the reporter or transcriber is a correct transcript of the reporter's stenographic notes or the electronically recorded record of the testimony and proceedings at the trial of the cause, is a sufficient authentication of the reporter's stenographic notes or the electronically recorded record without the signature of the presiding justice. [2007, c. 539, Pt. JJ, §3 (AMD).]

SECTION HISTORY

2007, c. 539, Pt. JJ, §3 (AMD).

§654. DEATH OR DISABILITY

When in any criminal case any material part of a transcript of the evidence taken by the Official Court Reporter cannot be obtained because of his death or disability, the justice who presided at the trial of the case shall on motion, after notice and hearing, if it is evident that the lack of such transcript prejudices the respondent in prosecuting his exceptions or appeal, set aside any verdict rendered in the case and grant a new trial at any time within one year after it was returned.

§655. TESTIMONY PROVED BY CERTIFIED COPY OF NOTES OR TRANSCRIPT OF FORMER TESTIMONY

Whenever it becomes necessary in any court in the State to prove the testimony of a witness at the trial of any former case in any court in the State, the certified copy of the notes of such testimony, taken by the Official Court Reporter at the court where the witness testified, or the transcript created by a transcriber of the electronically recorded record made at the court where the witness testified, is evidence to prove the witness's testimony. [2007, c. 539, Pt. JJ, §4 (AMD).]

SECTION HISTORY

2007, c. 539, Pt. JJ, §4 (AMD).

§656. STENOGRAPHIC REPORTS, TRANSCRIPTS TAXED IN BILL OF COSTS

Any amount legally chargeable by Official Court Reporters for writing out their reports or for transcribers for creating transcripts from the electronically recorded records for use in civil actions and actually paid by either party whose duty it is to furnish the reports or records may be taxed in the bill of costs and allowed against the losing party, as is allowed for copies, if furnished by the clerk. [2007, c. 539, Pt. JJ, §5 (AMD).]

SECTION HISTORY

2007, c. 539, Pt. JJ, §5 (AMD).

Subchapter 2: REPORTER OF THE LAW COURT

§701. APPOINTMENT AND TENURE; SALARY

(REPEALED)

SECTION HISTORY

1965, c. 391, §1 (AMD). 1969, c. 467, §4 (RP).

§702. DUTIES

The Reporter of Decisions shall prepare correct reports of all legal questions argued and decided, reporting cases more or less at large according to his judgment of their importance. He shall publish periodic advance sheets and at least one volume of Maine Reports yearly. The reporter shall, subject to the approval of the Chief Justice of the Supreme Judicial Court, make a written contract in the name of the State with any person, firm or corporation for the printing, publishing and binding of said reports. The price of each volume and the advance sheets shall be stated in the contract. He may require such person, firm or corporation to give a good and sufficient bond with good and sufficient sureties, conditioned for the faithful performance of all the terms and conditions of such contract by the person, firm or corporation with whom the reporter makes such contract. In case of a breach of any or all of the conditions of such bond, the reporter may maintain an action on such bond in the name of the State. In the exercise of any discretionary powers vested in him by this section or by section 57, the Reporter of Decisions shall act in accordance with such instructions or advice as may be given to him by the Chief Justice of the Supreme Judicial Court. [1965, c. 459, §1 (AMD).]

All copies of the Maine Reports purchased by the State shall be delivered to the State Law Librarian for distribution as provided in Title 3, section 173, subsection 3, paragraph B. [1973, c. 788, §8 (NEW).]

SECTION HISTORY

1965, c. 459, §1 (AMD). 1973, c. 788, §8 (AMD).

§703. COPYRIGHT OF REPORTS

(REPEALED)

SECTION HISTORY

1965, c. 459, §2 (RP).

§704. REIMBURSEMENT FOR EXPENSES

(REPEALED)

SECTION HISTORY

1969, c. 467, §4 (RP).

Subchapter 3: REPORTERS AND TRANSCRIPTS IN PROBATE COURT**§751. DUTIES OF REPORTERS**

The judge of any court of probate or court of insolvency may appoint a reporter to report the proceedings at any hearing or examination in his court, whenever such judge deems it necessary or advisable. Such reporter shall be sworn to a faithful discharge of his duty and, under the direction of the judge, shall take full notes of all oral testimony at such hearing or examination and such other proceedings at such hearing or examination as the judge directs; and when required by the judge shall furnish for the files of the court a correct typewritten transcript of his notes of the oral testimony of any person testifying at such hearing or submitting to such examination, and in making said transcript the reporter shall transcribe his said notes in full by questions and answers.

§752. READING AND SIGNING TRANSCRIPT OF TESTIMONY

In cases where the person testifying or submitting to examination is required by law to sign his testimony or examination, the transcript made as provided in section 751 shall be read to the person whose testimony or examination it is, at a time and place to be appointed by the judge, unless such person or his counsel in writing waives such reading. If it is found to be accurate, or if it contains errors or mistakes or alleged errors or mistakes and such errors or mistakes are either corrected or the proceedings had in relation to the same as provided, such transcript shall be signed by the person whose testimony or examination it is. When the reading of a transcript is waived as provided by this section, such transcript shall be deemed correct. In all other cases the transcript need not be signed but shall be deemed to be complete and correct without signing and shall have the same effect as if signed.

§753. COPIES OF TRANSCRIPT AS EVIDENCE

Whenever it becomes necessary in any court in the State to prove the testimony or examination taken as provided in sections 751 and 752, the certified copy of the transcript of such testimony or examination taken by such stenographer is evidence to prove the same.

§754. CORRECTION OF MISTAKES IN TRANSCRIPT

Manifest errors or mistakes in any transcript may be corrected, under the direction of the judge, according to the facts. When an error or mistake is alleged by the party conducting the hearing or examination or by his counsel, or by the person testifying or submitting to examination or by his counsel, and said parties cannot agree whether or not there is such an error or mistake as alleged, or what correction should be made,

the judge shall decide whether or not such an error or mistake exists, and may allow or disallow a correction according as he may find the fact. In such case the judge shall annex to the transcript a certificate signed by him stating the alleged error or mistake and by whom alleged, and the correction allowed or disallowed. In case the said parties mutually agree that there is an error or mistake in the transcript, and in like manner agree what the correction should be, the transcript may be corrected according to such agreement, but such correction shall be stated and made in the presence of the judge. No changes or alterations shall be made in any transcript except in the presence of the judge or the person appointed by the judge to take the examination.

§755. APPOINTMENT OF REPORTER BY JUDGE

When an examination is taken before some person appointed by the judge to take it, the judge may appoint a reporter to attend such examination for the purposes mentioned in section 751, and the duties of such reporter shall be the same as in examinations before the judge. The powers and duties of any person appointed by the judge to take an examination shall be the same at such examination as those of the judge, and the same proceedings for the correction or alteration of transcripts may be had before such person as before the judge.

§756. TRANSCRIPTS DEEMED ORIGINAL PAPERS

All transcripts made and signed as provided shall be deemed original papers.

Subchapter 4: GENERAL PROVISIONS; ETHICAL STANDARDS

§771. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2013, c. 298, §1 (NEW).]

1. Court reporter. "Court reporter" means a person who records legal proceedings by stenotype machine or other means allowed under the Maine Rules of Civil Procedure, Rule 30 and provides prompt preparation of an accurate, verbatim written transcript. "Court reporter" does not include an employee of the Judicial Branch or a person transcribing legal proceedings for the Judicial Branch.

[2013, c. 298, §1 (NEW) .]

2. Court reporting services. "Court reporting services" means services provided by a court reporter.

[2013, c. 298, §1 (NEW) .]

3. Court reporting services provider. "Court reporting services provider" means a business, entity or firm that provides or arranges for court reporting services.

[2013, c. 298, §1 (NEW) .]

4. Governmental entity. "Governmental entity" has the same meaning as in Title 14, section 8102, subsection 2.

[2013, c. 298, §1 (NEW) .]

5. Legal proceeding. "Legal proceeding" means a proceeding or series of proceedings by which a legal judgment is invoked and includes but is not limited to:

A. A court proceeding; [2013, c. 298, §1 (NEW).]

B. A deposition; [2013, c. 298, §1 (NEW).]

C. An administrative hearing; [2013, c. 298, §1 (NEW).]

D. An arbitration hearing; [2013, c. 298, §1 (NEW).]

E. An examination under oath; and [2013, c. 298, §1 (NEW).]

F. A sworn statement. [2013, c. 298, §1 (NEW).]

[2013, c. 298, §1 (NEW).]

6. Party. "Party" means a party to an action that is the subject of the legal proceeding for which court reporting services are provided or sought to be provided.

[2013, c. 298, §1 (NEW).]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§772. RELATIONSHIP TO PARTY OR PROCEEDING; PROHIBITION

1. Prohibition. A court reporter or a court reporting services provider may not provide court reporting services for a legal proceeding if that court reporter or the court reporting services provider:

A. Has a contractual relationship with a party or an attorney, representative, agent or insurer of a party, other than a contract to provide court reporting, litigation and trial support services; [2013, c. 298, §1 (NEW).]

B. Engages in any prohibited actions set forth in section 773; or [2013, c. 298, §1 (NEW).]

C. Is a party. [2013, c. 298, §1 (NEW).]

A court reporter may not provide court reporting services for a legal proceeding if the court reporter is a relative, employee or attorney of one of the parties or is a relative, employee or attorney of a person with a financial interest in the action or its outcome.

[2013, c. 298, §1 (NEW).]

2. Reasonable effort to determine; requirement. Prior to the provision of court reporting services, a court reporter or court reporting services provider shall make reasonable efforts to determine whether the provision of court reporting services is prohibited under this subchapter.

[2013, c. 298, §1 (NEW).]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§773. PROHIBITED ACTIONS

A court reporter or court reporting services provider may not: [2013, c. 298, §1 (NEW).]

1. Contract. Enter into an oral or written contractual agreement with an attorney, party to an action, insurance company or 3rd-party administrator or any other person or entity that has a financial interest in the case, action or legal proceeding, other than a contract to provide court reporting, litigation and trial support services;

[2013, c. 298, §1 (NEW).]

2. Advantage. Give an economic or other advantage to a party or a party's attorney, representative, agent, insurer or employee without offering the advantage to all parties or fail to offer comparable services, prices or financial terms to all parties, except that different credit terms may be offered based on payment experience and creditworthiness;

[2013, c. 298, §1 (NEW) .]

3. Outcome-based payment. Offer or provide court reporting services if payment for those services is made contingent on the outcome of the legal proceeding, base the compensation for the court reporting services on the outcome of the legal proceeding or otherwise give the court reporter or court reporting services provider a financial interest in the action;

[2013, c. 298, §1 (NEW) .]

4. Restrict choice of court reporter. Enter into an agreement for court reporting services that restricts an attorney from using the court reporter or court reporting services provider of the attorney's choosing;

[2013, c. 298, §1 (NEW) .]

5. Allow manipulation. Allow the format, content or body of a certified transcript as submitted by the court reporter to be manipulated in a manner that increases the cost of the transcript; or

[2013, c. 298, §1 (NEW) .]

6. Interference with services. Enter into a contract for court reporting services that allows an attorney, party to an action, insurance company or 3rd-party administrator or any other person or entity to interfere with a court reporter's right to deal directly with all parties to a proceeding, including any provision in a contract that restricts the right of the court reporter to contract with the other parties in a legal proceeding to provide transcripts to those parties.

[2013, c. 298, §1 (NEW) .]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§774. COMPARABLE TREATMENT OF PARTIES

1. Itemized statement. At any time during or following a legal proceeding, an attorney or a party is entitled to an itemized statement of the rates and charges for all services that have been or will be provided by a court reporter or court reporting services provider that is providing court reporting services to any party to the legal proceeding.

[2013, c. 298, §1 (NEW) .]

2. Information to parties. A court reporter or court reporting services provider shall provide to the parties information on prices, terms and conditions of court reporting services in sufficient time prior to the commencement of the legal proceeding to allow the parties the opportunity to effectively negotiate for any changes necessary to ensure that comparable terms and conditions are made available to all parties.

[2013, c. 298, §1 (NEW) .]

3. Information to court. Upon request, a court reporter or court reporting services provider shall provide an itemized invoice of all rates and charges for court reporting services provided to the administrative body, court or administrative tribunal in which the action upon which the legal proceeding is based is pending or scheduled to be heard.

[2013, c. 298, §1 (NEW) .]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§775. WAIVER PROHIBITED

The provisions of this subchapter may not be waived or otherwise modified. Any waiver or modification is contrary to public policy and is void and unenforceable. [2013, c. 298, §1 (NEW) .]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§776. EXCEPTION; GOVERNMENTAL ENTITIES

Notwithstanding section 773, if authorized or required by law, ordinance or rule, a governmental entity may obtain court reporting services on a long-term basis through competitive bidding. [2013, c. 298, §1 (NEW) .]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§777. CONSTRUCTION; PRO BONO SERVICES

Nothing in this chapter may be construed to limit the ability of a court reporting services provider to provide pro bono services to persons or parties with limited means. [2013, c. 298, §1 (NEW) .]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§778. REMEDIES

1. Motion. A party may file a motion alleging a violation of this subchapter with the administrative body, court or administrative tribunal in which the action upon which the motion is based is pending or scheduled to be heard. A person need not commence a separate action to allege a violation of this subchapter.

[2013, c. 298, §1 (NEW) .]

2. Sanction. In addition to remedies that are otherwise available by law, an administrative body, court or administrative tribunal that receives a motion filed pursuant to this section and determines that a person violated this subchapter may refuse to admit the contested transcript and may bar the person from providing services in matters before that administrative body, court or administrative tribunal.

[2013, c. 298, §1 (NEW) .]

SECTION HISTORY

2013, c. 298, §1 (NEW).

§779. APPLICATION

1. Application to services. This subchapter applies to court reporting services performed in this State, whether a party appears in person or by remote means, provided by:

A. A court reporter or court reporting services provider, whether or not based in the State, in connection with a legal proceeding that is commenced or maintained in this State; or [2013, c. 298, §1 (NEW) .]

B. A court reporter or court reporting services provider based in this State in connection with a legal proceeding that is commenced or maintained in a foreign jurisdiction. [2013, c. 298, §1 (NEW) .]

[2013, c. 298, §1 (NEW) .]

2. Application to Judicial Branch. This subchapter does not apply to court reporting services performed by employees of the Judicial Branch or persons transcribing legal proceedings for the Judicial Branch.

[2013, c. 298, §1 (NEW) .]

SECTION HISTORY

2013, c. 298, §1 (NEW) .

Chapter 17: ATTORNEYS AT LAW

Subchapter 1: ADMISSION TO PRACTICE

§801. BOARD OF BAR EXAMINERS; PURPOSE; APPOINTMENT

The Supreme Judicial Court shall create a board of bar examiners for the purposes of designing, administering and passing judgment on examinations taken by those individuals seeking admission to the bar. The board shall make recommendations to the Supreme Judicial Court as to which individuals have successfully passed this examination process and fulfilled the other requirements of this chapter for admission to the bar. All procedural, administrative and budgetary actions of a board of bar examiners shall be subject to rules established by the Supreme Judicial Court and are deemed to be actions of the Supreme Judicial Court. The board shall be composed of 9 members, 7 of whom shall be licensed to practice law in the State and shall be appointed by the Governor on the recommendation of the Supreme Judicial Court. The remaining 2 members shall be public members and shall be appointed by the Governor. [1987, c. 395, Pt. A, §10 (RPR).]

SECTION HISTORY

1971, c. 286, §1 (RPR). 1975, c. 66, §1 (RPR). 1975, c. 575, §§1,2 (AMD). 1975, c. 770, §14 (RPR). 1977, c. 3, §§1,2 (AMD). 1977, c. 694, §2 (AMD). 1983, c. 812, §12 (AMD). 1985, c. 124, §1 (AMD). 1987, c. 395, §A10 (RPR).

§801-A. REPORTS; LIMITATIONS

(REPEALED)

SECTION HISTORY

1977, c. 604, §1 (NEW). 1987, c. 395, §A11 (RP).

§801-B. BUDGET

(REPEALED)

SECTION HISTORY

1977, c. 604, §1 (NEW). 1995, c. 279, §1 (RP).

§802. ATTORNEYS FROM OTHER STATES

Attorneys who are practicing law in other states, territories or foreign countries may be admitted on motion to try cases in any of the courts of this State by those courts, but shall not be admitted to the general practice of law in this State without complying with section 805-A. [1985, c. 124, §2 (AMD).]

SECTION HISTORY

1967, c. 441, §1 (AMD). 1971, c. 286, §1 (RPR). 1973, c. 550, §1 (AMD). 1985, c. 124, §2 (AMD).

§803. QUALIFICATIONS FOR TAKING BAR EXAMINATION

1. Evidence of graduation. Before taking the examination for admission to the bar of the State, each applicant shall produce to a board of bar examiners satisfactory evidence that he graduated with a bachelor's degree from an accredited college or university or that he successfully completed at least 2 years' work as a candidate for that degree at an accredited college or university.

[1987, c. 395, Pt. A, §12 (AMD) .]

2. Further qualifications. Each applicant shall produce to a board of bar examiners satisfactory evidence that he:

A. Graduated from a law school accredited by the American Bar Association; [1985, c. 124, §3 (NEW) .]

B. Graduated from a law school accredited by the United States jurisdiction in which it is located, that he has been admitted to practice by examination in one or more jurisdictions within the United States and has been in active practice there for at least 3 years; [1985, c. 124, §3 (NEW) .]

C. Graduated from a foreign law school with a legal education which, in the board's opinion, is equivalent to that provided in those law schools accredited by the American Bar Association; or [1985, c. 124, §3 (NEW) .]

D. Successfully completed 2/3 of the requirements for graduation from a law school accredited by the American Bar Association and then pursued the study of law in the office of an attorney within the State for at least one year. [1985, c. 124, §3 (NEW) .]

[1987, c. 395, Pt. A, §12 (AMD) .]

3. Eligibility for examination. When an applicant has satisfied a board of bar examiners that these requirements have been fulfilled and has paid a fee fixed by the Supreme Judicial Court, he is eligible to take the examinations prepared or adopted by the board to determine if he has the qualifications required by this chapter for admission to the bar.

[1987, c. 395, Pt. A, §12 (AMD) .]

SECTION HISTORY

1971, c. 286, §1 (RPR). 1973, c. 550, §2 (AMD). 1975, c. 66, §2 (AMD).
1985, c. 124, §3 (RPR). 1987, c. 395, §A12 (AMD).

§804. FURTHER QUALIFICATIONS; EXAMINATION; FEE; GRADE OF

(REPEALED)

SECTION HISTORY

1967, c. 370, §§1,2 (AMD). 1971, c. 286, §2 (AMD). 1971, c. 411, (AMD).
1971, c. 622, §6 (AMD). 1973, c. 550, §3 (AMD). 1975, c. 66, §3 (AMD).
1979, c. 541, §A14 (AMD). 1983, c. 247, (AMD). 1985, c. 124, §4 (RP).

§805. REEXAMINATION

(REPEALED)

SECTION HISTORY

1971, c. 286, §§3,4 (AMD). 1975, c. 66, §4 (RPR). 1985, c. 124, §5
(RPR). 1987, c. 395, §A13 (RP).

§805-A. QUALIFICATIONS FOR ADMISSION TO PRACTICE

1. Certificate of qualification; admission. Any person who produces a certificate of qualification from the board recommending his admission to the bar may be admitted to practice as an attorney in the courts of this State on motion in open court. No person may be denied the opportunity to qualify for admission because of race, creed, color, national origin or sex.

[1985, c. 124, §6 (NEW) .]

2. Issuance of certificate of qualification. A board of bar examiners shall issue a certificate of qualification stating that the applicant is a person of good moral character and possesses sufficient learning in the law to practice as an attorney in the courts of this State to each applicant who:

A. Produces satisfactory evidence of good moral character.

(1) The fact that an applicant has been convicted as an adult of a crime that is punishable by imprisonment of one year or more in this State or in another state or jurisdiction of the United States raises a presumption that the applicant has not met this requirement. This presumption may be rebutted by proof that a lawful pardon has been obtained, that extraordinary circumstances surrounded the commission of the crime or that a reasonable amount of time has passed since the applicant's conviction and completion of sentence and there is evidence of complete rehabilitation based on the applicant's subsequent history.

(2) Nothing in subparagraph (1) precludes the board or the Supreme Judicial Court from considering a conviction as a basis for disqualification under this paragraph; [1993, c. 643, §1 (AMD) .]

B. Attains the passing grades established by the board on those examinations required by the board; and [1985, c. 124, §6 (NEW) .]

C. Establishes that he attended and observed any legal proceedings required by the board. [1985, c. 124, §6 (NEW) .]

[1993, c. 643, §1 (AMD) .]

3. Admission within one year of passing bar examination. The applicant must be admitted to practice within one year from the time that he has been notified of his passing of the bar examination. This one-year period may be enlarged by successive one-year periods by a Justice of the Supreme Judicial Court on motion for good cause shown during the period.

[1985, c. 124, §6 (NEW) .]

SECTION HISTORY

1985, c. 124, §6 (NEW). 1987, c. 395, §A14 (AMD). 1993, c. 643, §1 (AMD) .

§806. ATTORNEY'S OATH

Upon admission to the bar, every applicant shall, in open court, take and subscribe an oath to support the Constitution of the United States and the Constitution of this State, and take the following oath, or, in the case of an applicant conscientiously scrupulous of taking an oath, such applicant shall make appropriate affirmations to the same effect: [1975, c. 66, §5 (AMD) .]

"You solemnly swear that you will do no falsehood nor consent to the doing of any in court, and that if you know of an intention to commit any, you will give knowledge thereof to the justices of the court or some of them that it may be prevented; you will not wittingly or willingly promote or sue any false, groundless

or unlawful suit nor give aid or consent to the same; that you will delay no man for lucre or malice, but will conduct yourself in the office of an attorney within the courts according to the best of your knowledge and discretion, and with all good fidelity, as well as to the courts, as to your clients. So help you God."

SECTION HISTORY

1975, c. 66, §5 (AMD).

§806-A. LICENSE TO PRACTICE SUBJECT TO CONDITION

Each person who is admitted to practice as an attorney in this State must complete, within 18 months after his license is issued, any practical skills course approved by the board. This period may be enlarged by a Justice of the Supreme Judicial Court on motion for good cause shown during that period. [1985, c. 124, §7 (NEW).]

If an attorney fails to complete this course within the time allowed, the board shall notify the Supreme Judicial Court and the Board of Overseers of the Bar that the attorney's license is invalid and continued practice of law is unauthorized under section 807. [1985, c. 124, §7 (NEW).]

An attorney who loses his license under this section shall be readmitted after notifying the Supreme Judicial Court and the Board of Overseers of the Bar of his later compliance with this section. [1985, c. 124, §7 (NEW).]

SECTION HISTORY

1985, c. 124, §7 (NEW).

§807. UNAUTHORIZED PRACTICE OF LAW

1. Prohibition. No person may practice law or profess to practice law within the State or before its courts, or demand or receive any remuneration for those services rendered in this State, unless that person has been admitted to the bar of this State and has complied with section 806-A, or unless that person has been admitted to try cases in the courts of this State under section 802.

[1989, c. 755, (RPR) .]

2. Violation. Any person who practices law in violation of these requirements is guilty of the unauthorized practice of law, which is a Class E crime.

[1989, c. 755, (RPR) .]

3. Application. This section shall not be construed to apply to:

A. Practice before any Federal Court by any person admitted to practice therein; [1989, c. 755, (RPR) .]

B. A person pleading or managing that person's own cause in court; [1989, c. 755, (RPR) .]

C. An officer or authorized employee of a corporation, partnership, sole proprietorship or governmental entity, or a member, manager or authorized employee of a limited liability company, who is not an attorney but is appearing for that organization:

(1) In an action cognizable as a small claim under Title 14, chapter 738; or

(2) For the purposes of entering a plea or answer and paying the fine or penalty for a violation by that organization of Title 23, chapter 24 or Title 29-A; [2001, c. 119, §1 (AMD) .]

D. A person who is not an attorney, but is representing a municipality under:

(1) Title 30-A, section 2671, subsection 3;

(3) Title 30-A, section 4452, subsection 1; or

(4) Title 38, section 441, subsection 2; [1997, c. 296, §1 (AMD).]

E. A person who is not an attorney, but is representing the Department of Environmental Protection under Title 38, section 342, subsection 7; [1989, c. 755, (RPR).]

F. A person who is not an attorney, but is representing the Bureau of Unemployment Compensation or the Bureau of Revenue Services under section 807-A; [1995, c. 560, Pt. G, §1 (AMD); 1997, c. 526, §14 (AMD).]

G. A person who is not an attorney, but is representing a party in any hearing, action or proceeding before the Workers' Compensation Board as provided in Title 39-A, section 317; [1995, c. 419, §1 (AMD).]

H. A person who is not an attorney but has been designated to represent the Department of Health and Human Services under Title 22, section 3473, subsection 3 or under Title 22-A, section 207, subsection 7 in Probate Court proceedings; [2007, c. 539, Pt. N, §4 (AMD).]

I. A person who is not an attorney, but is representing the Department of Health and Human Services in a child support enforcement matter as provided by Title 14, section 3128-A, subsection 7; Title 18-A, section 5-204; and Title 19-A, section 2361, subsection 10; [2001, c. 554, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

J. For the purposes of defending a civil action filed against a corporation, an officer of the corporation if the corporation is organized in this State and has 5 or fewer shareholders; [1997, c. 683, Pt. E, §2 (AMD).]

K. A person who is not an attorney, but who is representing the Department of Health and Human Services in accordance with Title 19-A, section 1615; Title 19-A, section 2009, subsection 8; Title 19-A, section 2201, subsection 1-B; and Title 19-A, section 2202, subsection 1-B; [1999, c. 139, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

L. A person who is not an attorney, but who is representing the Department of Agriculture, Conservation and Forestry in accordance with Title 7, section 3909, subsection 2; [2003, c. 278, §1 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

M. A law enforcement officer, as defined in Title 29-A, section 101, subsection 30, who is not an attorney but who is representing the State in the prosecution of a traffic infraction, as defined in Title 29-A, section 101, subsection 85, when representation in that matter has been approved by the prosecuting attorney; [2007, c. 249, §4 (AMD).]

N. A person who is not an attorney, but is representing the State under section 807-A; [2007, c. 611, §1 (AMD).]

O. A person who is not an attorney, but who is representing a party in any hearing, action or proceeding before the Maine Public Employees Retirement System; [2009, c. 480, §1 (AMD).]

P. A person who is not an attorney but who, as the executive director of the State Harness Racing Commission, is representing the Department of Agriculture, Conservation and Forestry at adjudicatory hearings before the commission in accordance with Title 8, section 263-C; [2013, c. 45, §1 (AMD); 2013, c. 134, §1 (AMD).]

Q. A person who is an attorney admitted to practice in another United States jurisdiction to the extent permitted by rules of professional conduct adopted by the Supreme Judicial Court; [2013, c. 1, §5 (COR).]

R. A person who is not an attorney but who is a public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer under Title 36, section 151-A, subsection 2 and is representing a party in any hearing, action or proceeding before the Maine Board of Tax Appeals in accordance with Title 36, section 151-D; or [2013, c. 1, §6 (COR).]

(Paragraph R as enacted by PL 2013, c.134, §3 is REALLOCATED TO TITLE 4, SECTION 807, SUBSECTION 3, PARAGRAPH S)

S. (REALLOCATED FROM T. 4, §807, sub-§3, ¶R) An individual who is the sole member of a limited liability company or is a member of a limited liability company that is owned by a married couple , registered domestic partners or an individual and that individual's issue as defined in Title 18-A, section 1-201, subsection (21) who is not an attorney but is appearing for that company in an action for forcible entry and detainer pursuant to Title 14, chapter 709. [2015, c. 195, §1 (AMD) .]

[2015, c. 195, §1 (AMD) .]

4. Evidence. In all proceedings, the fact, as shown by the records of the Board of Overseers of the Bar, that that person is not recorded as a member of the bar shall be prima facie evidence that that person is not a member of the bar licensed to practice law in the State.

[1989, c. 755, (RPR) .]

Notwithstanding any of the other provisions of this chapter and under such terms, conditions, limitations, qualifications and supervision as the Supreme Judicial Court shall by rule require, a senior law student who is enrolled in a law school which is approved by the American Bar Association, may appear in the courts of the State on behalf of the State or an agency thereof, or under the supervision of an organization providing legal services to the indigent approved by the Supreme Judicial Court on behalf of an individual receiving services through such organization. [1989, c. 755, (RPR) .]

SECTION HISTORY

1965, c. 92, §1 (AMD). 1969, c. 396, (AMD). 1973, c. 625, §13 (AMD). 1975, c. 636, (AMD). 1977, c. 593, §1 (AMD). 1977, c. 696, §26 (AMD). 1979, c. 700, §2 (AMD). 1983, c. 126, (AMD). 1983, c. 420, (AMD). 1983, c. 796, §2 (AMD). 1985, c. 124, §8 (AMD). 1985, c. 598, §1 (AMD). 1985, c. 742, §1 (AMD). 1987, c. 30, (AMD). 1987, c. 402, §A8 (AMD). 1987, c. 559, §B1 (AMD). 1987, c. 737, §§C4,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C2,C8,C10 (AMD). 1989, c. 265, §1 (AMD). 1989, c. 755, (RPR). 1989, c. 858, §1 (AMD). 1991, c. 885, §E4 (AMD). 1991, c. 885, §E47 (AFF). 1995, c. 65, §A5 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 419, §§1-3 (AMD). 1995, c. 560, §§G1,K82 (AMD). 1995, c. 560, §K83 (AFF). 1995, c. 599, §§1-3 (AMD). 1995, c. 694, §D4 (AMD). 1995, c. 694, §E2 (AFF). RR 1997, c. 1, §2 (COR). 1997, c. 238, §1 (AMD). 1997, c. 296, §1 (AMD). 1997, c. 393, §A6 (AMD). 1997, c. 393, §A7 (AFF). 1997, c. 466, §§1,2 (AMD). 1997, c. 466, §28 (AFF). 1997, c. 526, §14 (AMD). 1997, c. 669, §1 (AMD). 1997, c. 683, §§E2-4 (AMD). 1999, c. 139, §§1-3 (AMD). 2001, c. 119, §1 (AMD). 2001, c. 354, §3 (AMD). 2001, c. 554, §1 (AMD). RR 2003, c. 2, §1 (COR). 2003, c. 278, §§1-3 (AMD). 2003, c. 689, §B6 (REV). 2007, c. 58, §3 (REV). 2007, c. 249, §§4-6 (AMD). 2007, c. 539, Pt. N, §4 (AMD). 2007, c. 611, §§1-3 (AMD). 2009, c. 480, §1-3 (AMD). 2011, c. 657, Pt. W, §5 (REV). RR 2013, c. 1, §§5-7 (COR). 2013, c. 45, §§1-3 (AMD). 2013, c. 134, §§1-3 (AMD). 2015, c. 195, §1 (AMD).

§807-A. REPRESENTATION BY BUREAU OF UNEMPLOYMENT COMPENSATION, DEPARTMENT OF THE ATTORNEY GENERAL OR BUREAU OF REVENUE SERVICES EMPLOYEES

Upon the promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Bureau of Unemployment Compensation may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes and overpayments for which warrants have been issued pursuant to Title 26, chapter 13. [1995, c. 560, Pt. G, §2 (AMD) .]

Upon promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Department of Administrative and Financial Services, Bureau of Revenue Services may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes for which warrants have been issued pursuant to Title 36, and may represent the State Tax Assessor in arraignment proceedings in District Court in cases in which a criminal complaint has been filed alleging violation of a provision of Title 36. [2005, c. 683, Pt. A, §3 (RPR).]

Upon the promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Department of the Attorney General may serve civil process and represent the State in District Court in disclosure proceedings pursuant to Title 14, chapters 502 and 502-A. [2007, c. 248, §1 (AMD).]

If the Supreme Judicial Court adopts rules under this section, the rules must include the establishment of standards and a method to certify employees of the Bureau of Unemployment Compensation, the Department of the Attorney General and the Bureau of Revenue Services who may represent the State in court under this section as being familiar with court procedures. [2003, c. 278, §4 (AMD).]

SECTION HISTORY

1985, c. 598, §2 (NEW). 1987, c. 497, §1 (AMD). 1989, c. 508, §1 (AMD). 1995, c. 560, §G2 (AMD). 1997, c. 526, §14 (AMD). 2003, c. 278, §4 (AMD). 2005, c. 218, §1 (AMD). 2005, c. 332, §1 (AMD). 2005, c. 683, §A3 (AMD). 2007, c. 248, §1 (AMD).

§807-B. AUTHORIZED IMMIGRATION AND NATIONALITY LAW ASSISTANCE

1. Short title. This section may be known and cited as "the Immigration and Nationality Law Assistance Act."

[2005, c. 629, §1 (NEW) .]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Compensation" means money, property, the reciprocal exchange of services or anything else of value. [2005, c. 629, §1 (NEW).]

B. "Federally authorized immigration representative" means an attorney who is admitted to and in good standing before the bar of a state of the United States other than Maine, or other person who is authorized to represent another in immigration and nationality law matters to the extent allowed under federal law or regulations, including 8 Code of Federal Regulations, Sections 292.1 and 1292.1 (1996), with such representation specifically limited to federal immigration and nationality law matters. [2005, c. 2, §2 (COR).]

C. "Immigration and nationality law assistance" means assistance on an immigration and nationality law matter. [2005, c. 629, §1 (NEW).]

D. "Immigration form" means a form created by the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor, the United States Department of State or other federal agency charged with implementing federal immigration and nationality laws for use in an immigration and nationality law matter. [2005, c. 629, §1 (NEW) .]

E. "Immigration and nationality law matter" means any application, proceeding, filing or other action before an agency of the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor or the United States Department of State or other federal agency charged with implementing federal immigration and nationality laws regarding the

nonimmigrant, immigrant or citizenship status of or the admission to or removal from the United States of a person that arises from the application of a federal immigration and nationality law, executive order or presidential proclamation. [2005, c. 629, §1 (NEW) .]

F. "Nonlegal immigration and nationality law assistance" is limited to:

- (1) Translating from English into a customer's primary language questions on an immigration form selected by the customer so that the customer can understand the questions and does not include advising the customer as to the appropriateness of the immigration form selected by the customer or suggesting which immigration form to use;
- (2) Translating from a customer's primary language into English and otherwise transcribing to an immigration form the customer's answers to questions on that form and does not include advising the customer as to the appropriateness of the immigration form selected by the customer or suggesting which immigration form to use or as to the customer's answers on that immigration form;
- (3) Securing or assisting the customer to secure supporting documents currently in existence, such as birth and marriage certificates, that may be needed for submission with immigration forms and does not include drafting of affidavits or other documents that may need to accompany immigration forms; and
- (4) Making referrals for legal representation with respect to an immigration and nationality law matter to an attorney admitted to and in good standing before the bar of the State or to a federally authorized immigration representative duly authorized by federal law and regulations to undertake such representation. [2005, c. 629, §1 (NEW) .]

[2005, c. 2, §2 (COR) .]

3. Nonlegal immigration and nationality law assistance authorized. A person offering immigration and nationality law assistance may offer or provide only nonlegal immigration and nationality law assistance, except, however, that an attorney admitted to and in good standing before the bar of the State or a federally authorized immigration representative may provide immigration and nationality law assistance in the form of representation to the extent authorized by federal laws and regulations in immigration proceedings before agencies of the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor or the United States Department of State or other federal agency charged with carrying out the implementation of federal immigration and nationality laws.

Nothing in this section is intended to nor does it authorize either an attorney who is not admitted to and in good standing before the bar of the State or a federally authorized immigration representative to offer legal opinions or general legal advice regarding state laws or to represent another before any state court, administrative agency or other forum charged with interpreting or implementing state laws.

[2005, c. 629, §1 (NEW) .]

4. Prohibited activities. In the course of dealing with customers or prospective customers, a provider of immigration and nationality law assistance may not:

- A. Make a statement that the provider of immigration and nationality law assistance can or will obtain special favors from or has special influence with an agency or a tribunal of the United States Government or of any state government; [2005, c. 629, §1 (NEW) .]
- B. Retain compensation for services not performed; [2005, c. 629, §1 (NEW) .]
- C. Refuse to return documents supplied by, prepared by, paid for by or obtained on behalf of the customer and requested by the customer, regardless of whether there is outstanding compensation owed to the provider of immigration and nationality law assistance by the customer or a fee dispute between the provider of immigration and nationality law assistance and the customer; [2005, c. 629, §1 (NEW) .]

D. Fail to complete and sign, in the space provided, an immigration form that requests the preparer's name, address, telephone number or signature, even if the provider of immigration and nationality law assistance has only provided nonlegal immigration and nationality law assistance in the preparation of the immigration form; [2005, c. 629, §1 (NEW).]

E. Provide legal advice regarding immigration and nationality law matters, including selecting immigration forms for a customer or advising a customer as to the appropriateness of the forms the customer has selected or as to the customer's answers to the questions on the forms, unless the provider of immigration and nationality law assistance is an attorney admitted to and in good standing before the bar of the State or is a federally authorized immigration representative; or [2005, c. 629, §1 (NEW).]

F. Represent or advertise or provide notice in any way or manner, including, but not limited to, the assertion of a title or credential such as "notario," "immigration consultant," "immigration agent," "immigration assistant" or "attorney," that could cause a customer to believe that the provider of immigration and nationality law assistance is authorized to practice law in the State or possesses special skill or expertise in immigration and nationality law matters unless the provider is an attorney admitted to and in good standing before the bar of the State or is a federally authorized immigration representative. A federally authorized immigration representative whose principal place of business is in the State shall give verbal notice to customers that the federally authorized immigration representative is not an attorney admitted to the bar of the State and may not give general legal advice or representation under state law and shall also include language in any written advertisement, notice or contract for services that clearly conveys that the federally authorized immigration representative is not an attorney admitted to practice law in the State and may not give general legal advice or assistance under state law. [2005, c. 629, §1 (NEW).]

[2005, c. 629, §1 (NEW).]

5. Unfair method of competition or unfair and deceptive act or practice. A violation of this section substantially affects the public interest and constitutes an unfair method of competition and a deceptive act or practice in the conduct of trade or commerce for purposes of the Maine Unfair Trade Practices Act.

[2005, c. 629, §1 (NEW).]

6. Civil violation. A violation of this section constitutes a civil violation for which a fine of not more than \$5,000 may be adjudged.

[2005, c. 629, §1 (NEW).]

7. Civil action. In addition to any other remedy that may be available, a customer who is aggrieved by a violation of this section may initiate a civil action in the Superior Court against the violator for injunctive relief or damages or both. If the court finds a violation of this section, the court may award to the customer:

A. An amount equal to actual damages sustained by the customer as a result of the violation; [2005, c. 629, §1 (NEW).]

B. An amount equal to 3 times the actual damages; and [2005, c. 629, §1 (NEW).]

C. The costs of the action together with reasonable attorney's fees as determined by the court. [2005, c. 629, §1 (NEW).]

[2005, c. 629, §1 (NEW).]

8. Attorney General action; report. Whenever the Attorney General has reason to believe that a person within the State has engaged in or is engaging in activities that violate this section, the Attorney General may initiate an action in the Superior Court to enforce this section. The Attorney General, by January 1, 2007, and every January 1st thereafter, shall submit a report to the joint standing committee of the

Legislature having jurisdiction over judiciary matters on the number and circumstances of all investigations that the Department of the Attorney General has initiated in the preceding year relating to violations of this section.

[2005, c. 629, §1 (NEW) .]

SECTION HISTORY

RR 2005, c. 2, §2 (COR). 2005, c. 629, §1 (NEW).

§808. ACTION FOR INJUNCTION

Upon his own information or upon complaint of any person, including any judge or any organized bar association in this State, the Attorney General may maintain an action for injunctive relief in the Superior Court against any person who renders, offers to render or holds himself out as rendering any service which constitutes the unauthorized practice of the law. Any organized bar association in this State may intervene in the action, at any stage of the proceeding, for good cause shown. [1965, c. 92, §2 (NEW).]

The action may be maintained by any organized bar association in this State. [1965, c. 92, §2 (NEW) .]

SECTION HISTORY

1965, c. 92, §2 (NEW).

§809. INVESTIGATION BY ATTORNEY GENERAL

(REPEALED)

SECTION HISTORY

1965, c. 92, §2 (NEW). 1977, c. 696, §27 (AMD). 2007, c. 597, §3 (RP).

§810. REMEDIES AND PROCEDURES ADDITIONAL

The remedies and procedures provided in sections 808 to 811 are in addition to and not in substitution for other available remedies and procedures. [1965, c. 92, §2 (NEW) .]

SECTION HISTORY

1965, c. 92, §2 (NEW).

§811. PERSON DEFINED

"Person" means any individual, corporation, partnership or association. [1965, c. 92, §2 (NEW) .]

SECTION HISTORY

1965, c. 92, §2 (NEW).

§812. ATTORNEYS' CLIENT SECURITY FUND

(REPEALED)

SECTION HISTORY

1991, c. 9, §E2 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 528, §E5 (RP). 1991, c. 591, §E5 (RP).

Subchapter 2: REMOVAL AND RESIGNATION

§851. INFORMATION AGAINST ATTORNEY

Whenever an information is filed in the office of the clerk of courts in any county by the Attorney General, or by a committee of the State Bar Association, or by a committee of the bar or bar association of such county, charging that an attorney at law has conducted himself in a manner unworthy of an attorney, or has become and is disqualified for the office of attorney and counselor at law, for reasons specified in the information, any Justice of the Supreme Judicial Court may, in the name of the State, issue a rule requiring the attorney informed against to appear on a day fixed to show cause why his name should not be struck from the roll of attorneys, or such other disciplinary measures imposed as the justice deems appropriate, which rule, with an attested copy of the information, shall be served upon such attorney in such manner as the justice directs at least 14 days before the return day, and shall be made returnable either in the county where such attorney resides or where it is charged that the misconduct was committed. [1965, c. 309, §1 (AMD).]

SECTION HISTORY

1965, c. 309, §1 (AMD).

§852. DENIAL OF CHARGES; INFORMATION TO STAND FOR HEARING

If the attorney on whom such service has been made, on or before said return day files in the office of the clerk of courts in said county of return a denial of the charges specified in the information, the information shall thereupon stand upon the docket for hearing at such time and place as said justice shall order, upon such lawful evidence as may be produced either by the State or by the respondent.

§853. PROCEEDINGS ON DEFAULT OR HEARING

If such attorney fails to file his denial, the facts set forth in the information shall be taken as confessed. If the justice finds that the facts so confessed are sufficient to disqualify the respondent from holding the office of attorney and counselor at law, or if, in case of denial, the justice upon hearing finds that any of the charges specified are true and that the acts proved are sufficient to disqualify the respondent, he shall give judgment accordingly, and shall enter a decree that the respondent be removed from the office of attorney and counselor at law in all the courts of the State and that his name be struck from the roll of attorneys.

If the justice upon the facts so confessed, or, in the case of denial, upon hearing, finds that any of the charges specified are true but that the acts proved are not sufficient to disqualify the respondent permanently from holding the office of attorney and counselor at law, he shall give judgment accordingly and may suspend such respondent from the practice of law for such period as the justice may deem appropriate, or impose such other disciplinary measures as the justice deems appropriate. [1965, c. 309, §2 (NEW).]

SECTION HISTORY

1965, c. 309, §2 (AMD).

§854. JUDGMENT FINAL UNLESS APPEALED

The judgment of such justice shall be final unless the respondent within one week files his appeal therefrom to the law court by entering his claim therefor upon the docket.

§855. APPEALS

The appeal shall be heard upon printed copies of the case furnished by the respondent at the next law term. If the case is not argued, it shall be decided upon the record, and if the respondent fails to enter his appeal with the printed copies of the case during the first 3 days of said law term, the counsel for the prosecution shall enter the appeal with an attested copy of the judgment and decree, whereupon the same shall be affirmed by the law court.

§856. CONDUCT OF PROSECUTION

The prosecution shall be conducted by the district attorney for the county where the rule is returnable, unless the justice issuing the rule appoints some other suitable counsel to perform said duty. Compulsory process shall issue to compel the attendance of witnesses, and in case of decree of removal, judgment shall be rendered in behalf of the State against the respondent for full costs to be taxed by the court. [1973, c. 567, §20 (AMD).]

SECTION HISTORY

1973, c. 567, §20 (AMD).

§857. INTERPRETATION OF PROVISIONS

Sections 851 to 856 do not annul or restrict any authority hitherto possessed or exercised by the courts over attorneys.

§858. RESIGNATION AND REINSTATEMENT OF ATTORNEYS

Any member of the bar of this State may resign from the office of attorney and counselor at law by submitting his resignation to any Justice of the Supreme Judicial Court who may or may not, in his discretion, in the name of the State of Maine accept such resignation and order that such attorney's name be stricken from the roll of attorneys of the State. No person whose resignation from his office of attorney and counselor at law has been accepted by a Justice of the Supreme Judicial Court shall be readmitted to the practice of law in any of the courts of the State or entitled to practice law within said State unless and until he shall have been reinstated as an attorney and counselor at law by a Justice of the Supreme Judicial Court. The procedure for such reinstatement shall be the same as in the case of attorneys who have been disbarred.

§859. FALSE ADVERTISING OR REPRESENTATION TO BE AN ATTORNEY.

If any person who has not been admitted to practice law in this State or whose name has been struck from the roll of attorneys advertises as or represents himself to be an attorney or counselor at law, he shall be guilty of a Class E crime. [1977, c. 696, §28 (RPR).]

SECTION HISTORY

1977, c. 696, §28 (RPR).

§860. MANAGEMENT OF CAUSES BY PARTIES OR COUNSEL

Parties may plead and manage their own causes in court or do so by the aid of such counsel as they see fit to employ. No person whose name has been struck from the roll of attorneys for misconduct shall plead or manage causes in court under a power of attorney for any other party or be eligible for appointment as a notary public. [1981, c. 456, Pt. A, §6 (AMD).]

SECTION HISTORY

1981, c. 456, §A6 (AMD).

Subchapter 3: CENTRAL REGISTER

§901. ESTABLISHMENT AND MAINTENANCE

(REPEALED)

SECTION HISTORY

1971, c. 115, §§1,2 (AMD). 1979, c. 13, §6 (RP).

§902. PREPARATION

(REPEALED)

SECTION HISTORY

1971, c. 115, §§1,2 (AMD). 1979, c. 13, §6 (RP).

§903. REVISION

(REPEALED)

SECTION HISTORY

1971, c. 115, §§1,2 (AMD). 1979, c. 13, §6 (RP).

§904. REGISTER AS EVIDENCE

(REPEALED)

SECTION HISTORY

1971, c. 115, §§1,2 (AMD). 1979, c. 13, §6 (RP).

§905. CERTIFICATES

(REPEALED)

SECTION HISTORY

1971, c. 115, §§1,2 (AMD). 1979, c. 13, §6 (RP).

Chapter 18: PARALEGALS AND LEGAL ASSISTANTS

§921. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1999, c. 379, §1 (NEW).]

1. Paralegal and legal assistant. "Paralegal" and "legal assistant" mean a person, qualified by education, training or work experience, who is employed or retained by an attorney, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which an attorney is responsible.

[1999, c. 379, §1 (NEW) .]

SECTION HISTORY

1999, c. 379, §1 (NEW).

§922. RESTRICTION ON USE OF TITLES

1. Prohibition. A person may not use the title "paralegal" or "legal assistant" unless the person meets the definition in section 921, subsection 1.

[1999, c. 379, §1 (NEW) .]

2. Penalty. A person who violates subsection 1 commits a civil violation for which a forfeiture of not more than \$1000 may be adjudged.

[1999, c. 379, §1 (NEW) .]

SECTION HISTORY

1999, c. 379, §1 (NEW).

Chapter 19: NOTARIES PUBLIC

§951. SEAL; AUTHORITY TO ADMINISTER OATHS

A notary public may keep a seal of office, engraved with the notary public's name exactly as it appears on the notary public's commission, and the words "Notary Public" and "Maine" or its abbreviation "Me.," with the arms of state or such other device as the notary public chooses. When a notary public who has obtained a seal of office resigns, or the notary public's commission is revoked or expires, the notary public or heirs shall destroy the official seal or send it to the Secretary of State for destruction. When authorized by the laws of this State or of any other state or country to do any official act, the notary public may administer any oath necessary to the completion or validity of the act. [1991, c. 465, §3 (AMD).]

SECTION HISTORY

1981, c. 456, §A7 (AMD). 1989, c. 501, §L1 (AMD). 1989, c. 600, §A1 (AMD). 1991, c. 465, §3 (AMD).

§951-A. COMMISSION SIGNATURE

1. Official signature. When performing a notarization, a notary public must sign by producing that notary public's official signature by hand in the same form as indicated on the notary public's commission. For the purposes of this section, the notary public's official signature is the signature that appears on the notary public's most recent oath of office or most recent application for a notary public commission.

[2009, c. 74, §1 (NEW) .]

2. Change of signature. If the official signature of a notary public changes during the term of the notary public's commission, the notary public shall immediately provide the Secretary of State with a new sample of the notary public's official signature.

[2009, c. 74, §1 (NEW) .]

SECTION HISTORY

2009, c. 74, §1 (NEW).

§952. PROTESTS OF LOSSES; RECORD AND COPIES

When requested, every notary public shall enter on record all losses or damages sustained or apprehended by sea or land, and all averages and such other matters as, by mercantile usage, appertain to his office, grant warrants of survey on vessels, and all facts, extracts from documents and circumstances so noted shall be signed and sworn to by all the persons appearing to protest. He shall note, extend and record the protest so made, and grant authenticated copies thereof, under his signature and notarial seal, to those who request and pay for them.

§953. DEMAND AND NOTICE ON BILLS AND NOTES

Any notary public may, in behalf of any person interested, present any bill of exchange or other negotiable paper for acceptance or payment to any party liable therefor, notify indorsers or other parties thereto, record and certify all contracts usually recorded or certified by notaries, and in general, do all acts which may be done by notaries public according to the usages of merchants and authorized by law. He shall record all mercantile and marine protests by him noted and done in his official capacity. [1981, c. 456, Pt. A, §8 (AMD).]

SECTION HISTORY

1981, c. 456, §A8 (AMD).

§954. ACTS OF NOTARY WHO IS INTERESTED IN CORPORATION

Any notary public who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgement of any party to any written instrument executed to or by such corporation, or may administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or may protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such bank or other corporation. It shall be unlawful for any notary public to take the acknowledgment of an instrument by or to a bank or other corporation of which he is a stockholder, director, officer or employee where such notary is a party to such instrument, either individually or as a representative of such bank or other corporation, or to protest any negotiable instrument owned or held for collection by such bank or other corporation, where such notary is individually a party to such instrument.

§954-A. CONFLICT OF INTEREST IF NOTARY RELATED

A notary public may not perform any notarial act for any person if that person is the notary public's spouse, parent, sibling, child, spouse's parent, spouse's sibling, spouse's child or child's spouse, except that a notary public may solemnize the marriage of the notary public's parent, sibling, child, spouse's parent, spouse's sibling or spouse's child. This section does not affect or apply to notarial acts performed before August 4, 1988. [1999, c. 425, §1 (AMD).]

SECTION HISTORY

1987, c. 573, §1 (NEW). 1989, c. 137, (AMD). RR 1997, c. 2, §6 (COR).
1999, c. 425, §1 (AMD).

§955. COPIES; EVIDENCE

The protest of any foreign or inland bill of exchange, promissory note or order, and all copies or certificates by him granted shall be under his hand and shall be received in all courts as legal evidence of the transactions and as to the notice given to the drawer or indorser and of all facts therein contained. [1981, c. 456, Pt. A, §9 (AMD).]

SECTION HISTORY

1981, c. 456, §A9 (AMD).

§955-A. REMOVAL FROM OFFICE

(REPEALED)

SECTION HISTORY

1965, c. 74, (NEW). 1975, c. 771, §22 (AMD). 1977, c. 694, §§3,4 (AMD).
1981, c. 456, §A10 (AMD). 1987, c. 573, §2 (RPR). 1997, c. 712, §1
(RP).

§955-B. MAINTENANCE OF RECORDS

The Secretary of State shall recommend that every notary public keep and maintain records of all notarial acts performed. The notary shall safeguard and retain exclusive custody of these records. The notary may not surrender the records to another notary or to an employer. The records may be inspected in the notary's presence by any individual whose identity is personally known to the notary or is proven on the basis of satisfactory evidence and who specifies the notarial act to be examined. [1993, c. 485, §1 (AMD).]

SECTION HISTORY

1987, c. 573, §3 (NEW). 1991, c. 465, §4 (AMD). 1993, c. 485, §1 (AMD).

§955-C. DISCIPLINARY ACTION; GROUNDS; PROCEDURE; COMPLAINTS

1. Grounds. The Secretary of State may suspend, revoke or refuse to renew the commission of a notary public in the State. The Secretary of State's actions may be based on any of the following grounds:

A. The notary public has performed in an improper manner any duty imposed upon the notary public by law; [1997, c. 712, §2 (NEW).]

B. The notary public has performed acts not authorized by law; [1997, c. 712, §2 (NEW).]

C. The notary public is in violation of section 954-A or section 960; or [2005, c. 629, §2 (AMD).]

D. The notary public has been convicted of a crime as defined by rules adopted by the Secretary of State. These rules must provide that a conviction for perjury, false swearing, bribery, corrupt practices or forgery or related offenses may be a basis for the Secretary of State to suspend, revoke or refuse to renew the commission of a notary public. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1997, c. 712, §2 (NEW).]

[2005, c. 629, §2 (AMD) .]

2. Procedure. A notary public commission may not be suspended, revoked or refused for renewal for the reasons set forth in subsection 1 without prior written notice and opportunity for hearing. A notary public commission may not be suspended, revoked or refused for renewal under this section except by a decision by the Secretary of State or the Secretary of State's designee.

[1997, c. 712, §2 (NEW) .]

3. Complaints. Any person may file a complaint with the Secretary of State seeking disciplinary action against a notary public. Complaints must be in writing in a form prescribed by the Secretary of State. The Secretary of State may also bring a complaint against a notary public if the Secretary of State determines that the notary public may have violated the provisions of subsection 1. If the Secretary of State determines that a complaint alleges facts that, if true, would require revocation, suspension or nonrenewal of commission or other disciplinary action, the Secretary of State shall conduct a hearing pursuant to the Maine Administrative Procedure Act. Whenever the Secretary of State establishes that a complaint does not state facts that warrant a hearing, the complaint may be dismissed. Persons making complaints must be advised in writing of all formal decisions made by the Secretary of State regarding that complaint. Any person whose notary public commission has been suspended, revoked or refused for renewal may apply to the Secretary of State in writing for the reinstatement of the notary public commission or as set by rule for convictions pursuant to subsection 1, paragraph D at a time specified in the decision of the Secretary of State, and, in the case of revocation, any person may apply for a new commission one year from the date of the Secretary of State's original action.

[1997, c. 712, §2 (NEW) .]

SECTION HISTORY

1997, c. 712, §2 (NEW). 2005, c. 629, §2 (AMD).

§956. RESIGNATION OR REMOVAL; DEPOSIT OF RECORDS

The Secretary of State shall recommend that, on the resignation or removal from office of any notary public, the notary's records be transferred to the custody of the State Archivist. [1993, c. 485, §2 (AMD).]

SECTION HISTORY

1993, c. 485, §2 (AMD).

§957. INJURY OR CONCEALMENT OF RECORDS

Whoever knowingly destroys, defaces or conceals such record forfeits not less than \$200 nor more than \$1,000, and is liable for damages to any person injured in a civil action.

§958. FEES FOR PROTEST AND APPROPRIATION OF PENALTIES

For each protest of a bill or note, notifying parties, making his certificate thereof in due form and recording his proceedings, a notary public shall receive \$1.50. All penalties provided in sections 956 and 957 accrue 1/2 to the State and 1/2 to the prosecutor.

§959. GRANDFATHER CLAUSE; SEAL; RECORDS (REPEALED)

SECTION HISTORY

1991, c. 465, §5 (NEW). 1999, c. 425, §2 (RP).

§960. ADVERTISEMENT OF SERVICES

1. Advertisement defined. For purposes of this section, "advertisement" means material designed to promote a product or service offered by a person that is engaged in offering such products or services for profit. "Advertisement" includes business cards, brochures and notices.

[2005, c. 629, §3 (NEW) .]

2. Notice; requirements. A notary public who is not an attorney admitted to and in good standing before the bar of the State and who advertises notary services in a language other than English must include in the advertisement a notice that includes:

A. Information on the fees that the notary may charge; and [2005, c. 629, §3 (NEW) .]

B. The following statement:

"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN MAINE AND MAY NOT GIVE LEGAL ADVICE ABOUT IMMIGRATION OR ANY OTHER LEGAL MATTER OR ACCEPT FEES FOR LEGAL ADVICE."

[2005, c. 629, §3 (NEW) .]

The notice must be in both English and in the language of the advertisement and in letters of a conspicuous size. If the advertisement is by radio, television or any other audio medium, the statement may be modified, but must include substantially the same message.

[2005, c. 629, §3 (NEW) .]

3. Prohibition. An advertisement for notary services may not include a literal translation of the phrase "Notary Public" into any language other than English if the literal translation implies that the notary public is an attorney licensed to practice in the State or in any jurisdiction of the United States. For purposes of this subsection, "literal translation" means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

[2005, c. 629, §3 (NEW) .]

4. Civil violation. Any violation of this section constitutes a civil violation for which a fine of not more than \$5,000 may be adjudged.

[2005, c. 629, §3 (NEW) .]

5. Civil action. In addition to any other remedy that may be available, a customer who is aggrieved by a violation of this section may initiate a civil action in the Superior Court against the violator for injunctive relief or damages or both. If a court finds a violation of this section, the court may award to the customer:

- A. An amount equal to actual damages sustained by the customer as a result of the violation; [2005 , c. 629 , §3 (NEW) .]
- B. An amount equal to 3 times the actual damages; and [2005 , c. 629 , §3 (NEW) .]
- C. The costs of the action together with reasonable attorney's fees as determined by the court. [2005 , c. 629 , §3 (NEW) .]

[2005 , c. 629 , §3 (NEW) .]

6. Attorney General action. Whenever the Attorney General has reason to believe that a person in the State has engaged in or is engaging in activities that violate this section, the Attorney General may initiate an action in the Superior Court to enforce this section.

[2005 , c. 629 , §3 (NEW) .]

SECTION HISTORY

2005 , c. 629 , §3 (NEW) .

Chapter 21: JUSTICES OF THE PEACE

§1001. EXERCISE OF POWERS AND DUTIES; COMMISSION ***(REPEALED)***

SECTION HISTORY

1981, c. 456, §A11 (RP).

Chapter 22: UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT

§1011. RECOGNITION OF NOTARIAL ACTS PERFORMED OUTSIDE THIS STATE

For the purposes of this Act, "notarial acts" means acts which the laws and regulations of this State authorize notaries public of this State to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this State for use in this State with the same effect as if performed by a notary public of this State by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this State: [1969, c. 364, (NEW) .]

1. Notary public. A notary public authorized to perform notarial acts in the place in which the act is performed;

[1969, c. 364, (NEW) .]

2. Judge; clerk. A judge, clerk or deputy clerk of any court of record in the place in which the notarial act is performed;

[1969, c. 364, (NEW) .]

3. Foreign service. An officer of the foreign service of the United States, a consular agent or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

[1969, c. 364, (NEW) .]

4. Officer in Armed Forces. A commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the Armed Forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: A merchant seaman of the United States, a member of the Armed Forces of the United States or any other person serving with or accompanying the Armed Forces of the United States; or

[1969, c. 364, (NEW) .]

5. Others. Any other person authorized to perform notarial acts in the place in which the act is performed.

[1969, c. 364, (NEW) .]

SECTION HISTORY

1969, c. 364, (NEW) .

§1012. AUTHENTICATION OF AUTHORITY OF OFFICER

1. Proof. If the notarial act is performed by any of the persons described in section 1011, subsections 1 to 4, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

[1969, c. 364, (NEW) .]

2. --other. If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

A. Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act; [1969, c. 364, (NEW).]

B. The official seal of the person performing the notarial act is affixed to the document; or [1969, c. 364, (NEW).]

C. The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information. [1969, c. 364, (NEW).]

[1969, c. 364, (NEW).]

3. --other persons. If the notarial act is performed by a person other than one described in subsections 1 and 2, there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

[1969, c. 364, (NEW).]

4. Signature and title. The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

[1969, c. 364, (NEW).]

SECTION HISTORY

1969, c. 364, (NEW).

§1013. CERTIFICATE OF PERSON TAKING ACKNOWLEDGMENT

The person taking an acknowledgment shall certify that: [1969, c. 364, (NEW).]

1. Appearance. The person acknowledging appeared before him and acknowledged he executed the instrument; and

[1969, c. 364, (NEW).]

2. Person known. The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

[1969, c. 364, (NEW).]

SECTION HISTORY

1969, c. 364, (NEW).

§1014. RECOGNITION OF CERTIFICATE OF ACKNOWLEDGMENT

The form of a certificate of acknowledgment used by a person whose authority is recognized under section 1011 shall be accepted in this State if: [1969, c. 364, (NEW).]

1. Laws of the State. The certificate is in a form prescribed by the laws or regulations of this State;

[1969, c. 364, (NEW).]

2. Laws of state where acknowledged. The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgement is taken; or

[1969, c. 364, (NEW) .]

3. Certain words. The certificate contains the words "acknowledged before me," or their substantial equivalent.

[1969, c. 364, (NEW) .]

SECTION HISTORY

1969, c. 364, (NEW) .

§1014-A. PRESUMPTION OF COMPLIANCE

For the purposes of section 1014, subsection 2, a certificate of acknowledgment taken in a state other than Maine shall be presumed to be in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken if upon that certificate appears, in stamped, printed or embossed form, either separately or together: [1977, c. 696, §29 (NEW) .]

1. Notary public. The words "notary public;"

[1977, c. 696, §29 (NEW) .]

2. Name. The name of the notary public; and

[1977, c. 696, §29 (NEW) .]

3. State. The name of the state, or an abbreviation of the name of the state, in which the acknowledgment was taken.

[1977, c. 696, §29 (NEW) .]

SECTION HISTORY

1977, c. 696, §29 (NEW) .

§1015. CERTIFICATE OF ACKNOWLEDGMENT

1. Definition. The words "acknowledged before me" means:

A. That the person acknowledging appeared before the person taking the acknowledgment; [1969, c. 364, (NEW) .]

B. That he acknowledged he executed the instrument; [1969, c. 364, (NEW) .]

C. That, in the case of:

(1) A natural person, he executed the instrument for the purposes therein stated;

(2) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;

(3) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated;

(4) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated;

(5) A person acknowledging as a public officer, trustee, administrator, guardian or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated; and [1969, c. 364, (NEW).]

D. That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate. [1969, c. 364, (NEW).]

[1969, c. 364, (NEW) .]

SECTION HISTORY

1969, c. 364, (NEW).

§1016. SHORT FORMS OF ACKNOWLEDGMENT

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this State. The forms shall be known as "Statutory Short Forms of Acknowledgment" and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms. [1969, c. 364, (NEW).]

1. Individual. For an individual acting in his own right:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

[1969, c. 364, (NEW) .]

2. Corporation. For a corporation:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

[1969, c. 364, (NEW) .]

3. Partnership. For a partnership:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

[1969, c. 364, (NEW) .]

4. Principal. For an individual acting as principal by an attorney in fact:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

[1969, c. 364, (NEW) .]

5. Public officer. By any public officer, trustee or personal representative:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

[1969, c. 364, (NEW) .]

SECTION HISTORY

1969, c. 364, (NEW).

§1017. ACKNOWLEDGMENTS NOT AFFECTED BY THIS ACT

A notarial act performed prior to October 1, 1969 is not affected by this Act. This Act provides an additional method of proving notarial acts. Nothing in this Act diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this State. [1973, c. 625, §14 (AMD).]

SECTION HISTORY

1969, c. 364, (NEW). 1973, c. 625, §14 (AMD).

§1018. UNIFORMITY OF INTERPRETATION

This Act shall be so interpreted as to make uniform the laws of those states which enact it. [1969, c. 364, (NEW) .]

SECTION HISTORY

1969, c. 364, (NEW).

§1019. SHORT TITLE

This Act may be cited as the Uniform Recognition of Acknowledgments Act. [1969, c. 364, (NEW) .]

SECTION HISTORY

1969, c. 364, (NEW).

Chapter 23: MISCELLANEOUS PROVISIONS

§1051. LEGAL HOLIDAYS

No court may be held on Sunday or any day designated for the annual Thanksgiving; New Year's Day, January 1st; Martin Luther King, Jr., Day, the 3rd Monday in January; Washington's Birthday, the 3rd Monday in February; Patriot's Day, the 3rd Monday in April; Memorial Day, the last Monday in May, but if the Federal Government designates May 30th as the date for observance of Memorial Day, the 30th of May; the 4th of July; Labor Day, the first Monday of September; Columbus Day, the 2nd Monday in October; Veterans' Day, November 11th; or on Christmas Day. The Chief Justice of the Supreme Judicial Court may order that court be held on a legal holiday when he finds that the interests of justice and judicial economy in any particular case will be served. The public offices in county buildings may be closed to business on the holidays named in this section. When any one of the holidays named in this section falls on Sunday, the Monday following shall be observed as a holiday, with all the privileges applying to any of the days named in this section. [1985, c. 819, Pt. A, §1 (RPR).]

SECTION HISTORY

1969, c. 236, §1 (AMD). 1973, c. 114, §2 (AMD). 1973, c. 328, §1 (AMD). 1973, c. 788, §9 (AMD). 1975, c. 418, §1 (AMD). 1975, c. 623, §§3-G (AMD). 1979, c. 541, §A15 (AMD). 1979, c. 701, §1 (AMD). 1981, c. 202, (AMD). 1985, c. 50, (AMD). 1985, c. 114, §1 (AMD). 1985, c. 737, §A13 (RPR). 1985, c. 787, §2 (RPR). 1985, c. 819, §A1 (RPR).

§1052. CRIER IN THE COURTS

(REPEALED)

SECTION HISTORY

1977, c. 114, §14 (RP).

§1053. ADJOURNMENT BECAUSE OF DANGER FROM INFECTION

When a malignant infectious distemper prevails in any town wherein the Supreme Judicial Court, the Superior Court or court of county commissioners is to be held, said courts may be adjourned and held in any town in said county, by proclamation made in such public manner as such courts judge best, as near their usual place of meeting as they think that safety permits.

§1054. SURETY BONDS AUTHORIZED IN CIVIL AND CRIMINAL CASES

In any civil or criminal action or mesne process or other process where a bail bond, recognizance or personal sureties or other obligation is required, or whenever any person is arrested and is required or permitted to recognize with sureties for his appearance in court, the court official or other authority authorized by law to accept and approve the same shall accept and approve in lieu thereof, when offered, a good and sufficient surety bond duly executed by a surety company authorized to do business in this State.

§1055. DEATH OR DISABILITY OF PRESIDING JUSTICE

(REPEALED)

SECTION HISTORY

1965, c. 356, §8 (RP).

§1056. POWERS OF ATTORNEYS

Attorneys at law duly admitted and eligible to practice in the courts of the State shall have all of the powers of notaries public and be authorized to do all acts which may be done by notaries public with the same effect thereof and have the same territorial jurisdiction. [1981, c. 456, Pt. A, §12 (AMD).]

SECTION HISTORY

1967, c. 206, (NEW). 1981, c. 456, §A12 (AMD).

§1057. GOVERNMENT OPERATIONS SURCHARGE FUND

1. Fund established. There is established a fund to be known as the Government Operations Surcharge Fund. This fund must be maintained by the Treasurer of State for the purposes of reimbursing counties for costs associated with operations of the jail system and, until January 1, 2001, for funding infrastructure improvements to the Maine Criminal Justice Information System described in Title 16, section 631 and for funding the operation of the Judicial Department's computer system.

[1995, c. 668, §1 (AMD) .]

2. Surcharge imposed.

[1995, c. 668, §1 (AMD); T.4, §1057, sub-§2 (RP) .]

2-A. Surcharge imposed. Surcharges of 14% and 5% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, are considered a part of the fine, forfeiture or penalty. The 14% surcharge collected as a result of this subsection must be deposited monthly in the Government Operations Surcharge Fund and the 5% surcharge collected as a result of this subsection must be deposited directly into the General Fund. Three fourteenths of the surcharge collected and deposited in the Government Operations Surcharge Fund must be paid to the Maine Criminal Justice Academy to supplement current funds for training and recertification of part-time and full-time law enforcement officers. One fourteenth of the surcharge collected and deposited in the Government Operations Surcharge Fund must be paid to the State Police to supplement current funds for computer crimes investigations.

[2005, c. 676, §1 (AMD) .]

3. Reimbursement to counties.

[2007, c. 653, Pt. A, §1 (AMD); T. 4, §1057, sub-§3 (RP) .]

3-A. Reimbursement to counties. Monthly, the Treasurer of State shall transfer funds from the Government Operations Surcharge Fund to the County Jail Operations Fund program for the purpose of supporting the operation of the jails in an amount equal to 2% of the total fines, forfeitures and penalties, including the surcharge imposed pursuant to subsection 2-A, received by the Treasurer of State for deposit in the Government Operations Surcharge Fund. The balance remaining in the Government Operations Surcharge Fund at the end of each month must accrue to the General Fund. Funds collected and deposited each month to the Government Operations Surcharge Fund must be transferred on the last day of the month in which the collections are made to the County Jail Operations Fund program.

At the close of each month, the State Controller shall calculate the amount to be transferred to the County Jail Operations Fund program based on the collections made during the month. The State Controller shall transfer by journal entry the amount due to the County Jail Operations Fund program.

[2015, c. 335, §2 (AMD) .]

4. Payment for infrastructure improvements to the Maine Criminal Justice Information System and for operation of the Judicial Department's computer system.

[1995, c. 668, §1 (NEW); T.4, §1057, sub-§4 (RP) .]

SECTION HISTORY

1987, c. 339, §3 (NEW). 1987, c. 861, §5 (AMD). 1991, c. 303, §1 (AMD). 1991, c. 733, §3 (AMD). 1995, c. 668, §1 (AMD). 1997, c. 395, §01 (AMD). 2003, c. 20, §R3 (AMD). 2003, c. 673, §§TT1,2 (AMD). 2005, c. 676, §1 (AMD). 2007, c. 653, Pt. A, §§1, 2 (AMD). 2009, c. 213, Pt. GGG, §1 (AMD). 2009, c. 213, Pt. GGG, §7 (AFF). 2013, c. 598, §1 (AMD). 2015, c. 335, §2 (AMD).

§1057-A. MAINE COMMUNITY POLICING INSTITUTE SURCHARGE FUND
(REPEALED)

SECTION HISTORY

1999, c. 357, §3 (NEW). 2001, c. 51, §1 (AMD). 2001, c. 617, §3 (AMD). 2001, c. 698, §3 (AMD). 2001, c. 698, §7 (AFF). 2003, c. 20, §R4 (RP).

§1058. PRISONER APPLICATION TO PROCEED IN FORMA PAUPERIS

1. Prepayment of filing fee and certified copies required. A person who is confined in a federal, state, county or local correctional or detention facility may not bring a civil action arising under federal or state law in any court in this State with respect to a condition of that person's confinement or the effect of an action or inaction by a government official on the life of that person confined and may not appeal a judgment in such a civil action without prepayment of the filing fee unless, in addition to the in forma pauperis application and affidavit required by the Maine Rules of Civil Procedure, Rule 91, that person submits a certified copy of the general client account statement for that person for the 6-month period immediately preceding the filing of the action or appeal, obtained from the appropriate official of each facility at which that person is or was confined.

[2005, c. 506, §1 (AMD) .]

2. Waiver of prepayment of filing fee. If the court finds that the action or appeal is not frivolous and has been brought in good faith and that the person is without sufficient funds to pay the filing fee, it shall order that prepayment of the full amount of the filing fee be waived. If the court denies the in forma pauperis application, the action or appeal must be dismissed without prejudice, unless within 7 days after the denial the person pays the filing fee to the clerk of the court.

[1997, c. 75, §1 (NEW) .]

3. Full payment of filing fee required; initial partial filing fee. Notwithstanding subsection 2, the person shall pay the full amount of the filing fee. The court shall assess the person's financial status and, when funds exist, collect as a partial payment of the filing fee an initial partial filing fee of 20% of the greater of:

- A. The average monthly deposits to the general client account credited to the person for the 6-month period immediately preceding the filing of the action or appeal; or [2005, c. 506, §1 (AMD) .]
- B. The average monthly balance in the general client account for the person for the 6-month period immediately preceding the filing of the action or appeal. [2005, c. 506, §1 (AMD) .]

[2005, c. 506, §1 (AMD) .]

4. Payments from account. After payment of the initial partial filing fee, the person shall make monthly payments of 20% of the preceding month's deposits to the general client account credited to the person. The facility having custody of the person shall forward monthly payments from the account to the clerk of the court each time the amount in the account for the person exceeds \$10 until the filing fee is paid in full.

[2005, c. 506, §1 (AMD) .]

5. Restrictions on filing fee. The filing fee collected may not exceed the amount of the fee permitted by law for the commencement of a civil action or an appeal of a civil action. A person may not be prohibited from bringing a civil action or appealing a civil action if the court finds that the action or appeal is not frivolous and has been brought in good faith and that the person has no assets and no means by which to pay the initial partial filing fee.

[1997, c. 75, §1 (NEW) .]

6. Payment of outstanding restitution orders. Any compensatory damages awarded to a person in connection with a civil action brought with respect to a condition of the person's confinement or the effect of an action or inaction by a government official on the life of the person confined must be paid directly to satisfy any outstanding restitution orders pending against the person, whether as the result of court proceedings or facility disciplinary proceedings. The remainder of any such award, after full payment of all pending restitution orders, must be forwarded to the person.

[1997, c. 75, §1 (NEW) .]

7. Notification to victim. Prior to payment of any compensatory damages awarded to a person in connection with a civil action brought with respect to a condition of the person's confinement or the effect of an action or inaction by a government official on the life of the person confined, reasonable efforts must be made to notify the victims of the crime for which the person was confined concerning the pending payment of any such compensatory damages.

[1997, c. 75, §1 (NEW) .]

8. Civil liability. Neither the failure to perform the requirements of this section nor compliance with this section subjects the Commissioner of Corrections, the Department of Corrections, the county jail, the employees or officers of the department or jail or the attorney representing any of them to liability in a civil action.

[1997, c. 75, §1 (NEW) .]

SECTION HISTORY

1997, c. 75, §1 (NEW). 2005, c. 506, §1 (AMD).

§1059. FINES; TRIBAL LAW ENFORCEMENT ACTIVITIES

1. Civil and criminal fines. Except as provided in subsection 2, a fine for a civil violation, traffic infraction or Class D or Class E crime imposed for a violation of any tribal or state law must be remitted to the Passamaquoddy Tribe or the Penobscot Nation, as appropriate, when a tribal law enforcement agency issued the ticket, complaint, summons or warrant or made the arrest related to the violation.

[2009, c. 417, §1 (NEW) .]

2. Exception; environmental violations. A fine imposed by a state court for a violation of Title 38 within the Indian territory of the Passamaquoddy Tribe or the Penobscot Nation may not be remitted to the Passamaquoddy Tribe or the Penobscot Nation. In addition to those costs awarded to the State pursuant to Title 14, section 1522, subsection 1, the court may award to the Passamaquoddy Tribe or the Penobscot Nation costs associated with investigating and otherwise contributing to any enforcement action for a violation of Title 38.

[2009, c. 417, §1 (NEW) .]

3. Repeal.

[2011, c. 426, §1 (RP) .]

SECTION HISTORY

2009, c. 417, §1 (NEW). 2011, c. 426, §1 (AMD).

Chapter 25: ADMINISTRATIVE COURT

§1151. ADMINISTRATIVE COURT

(REPEALED)

SECTION HISTORY

1977, c. 551, §1 (NEW). 1977, c. 694, §5 (AMD). 1979, c. 265, §1 (AMD). 1979, c. 544, §8 (AMD). 1981, c. 698, §5 (AMD). 1983, c. 171, §§1,2 (AMD). 1983, c. 853, §§C14,18 (AMD). 1985, c. 748, §§1,2 (AMD). 1985, c. 771, §1 (AMD). 1987, c. 85, §1 (AMD). 1987, c. 141, §B1 (AMD). 1987, c. 395, §A15 (AMD). 1987, c. 402, §A9 (AMD). 1987, c. 595, §1 (AMD). 1987, c. 769, §A7 (AMD). 1989, c. 502, §A9 (AMD). 1991, c. 377, §2 (AMD). 1991, c. 563, §1 (AMD). 1991, c. 824, §B1 (AMD). RR 1993, c. 1, §3 (COR). 1995, c. 65, §A6 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 643, §M11 (AMD). 1999, c. 547, §A3 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 547, §B12 (RP).

§1152. PROCEDURE IN CONTESTED CASES

(REPEALED)

SECTION HISTORY

1977, c. 551, §1 (NEW). 1977, c. 694, §§6-9 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 547, §B12 (RP).

§1153. EMERGENCY PROCEEDINGS

(REPEALED)

SECTION HISTORY

1977, c. 551, §1 (NEW). 1999, c. 547, §B80 (AFF). 1999, c. 547, §B12 (RP).

§1154. SUBPOENAS BY ADMINISTRATIVE COURT

(REPEALED)

SECTION HISTORY

1977, c. 551, §1 (NEW). 1977, c. 694, §10 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 547, §B12 (RP).

§1155. DECISIONS

(REPEALED)

SECTION HISTORY

1977, c. 551, §1 (NEW). 1999, c. 547, §B80 (AFF). 1999, c. 547, §B12 (RP).

§1156. FINES

(REPEALED)

SECTION HISTORY

1977, c. 551, §1 (NEW). 1987, c. 339, §4 (AMD). 1991, c. 303, §2 (AMD).
1999, c. 547, §B80 (AFF). 1999, c. 547, §B12 (RP).

§1157. JUDICIAL REVIEW

(REPEALED)

SECTION HISTORY

1977, c. 551, §1 (NEW). 1977, c. 694, §11 (AMD). 1999, c. 547, §B80
(AFF). 1999, c. 547, §B12 (RP).

§1158. JUDGE OF ADMINISTRATIVE COURT ASSIGNED TO SIT IN DISTRICT COURT

(REPEALED)

SECTION HISTORY

1979, c. 12, §3 (NEW). 1987, c. 85, §2 (AMD). 1999, c. 547, §B80 (AFF).
1999, c. 547, §B12 (RP).

Chapter 27: JUDICIAL RETIREMENT ON OR AFTER DECEMBER 1, 1984

Subchapter 1: GENERAL PROVISIONS

§1201. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

1. Accumulated contributions. "Accumulated contributions" means the sum of all the amounts credited to a member's individual account, together with regular interest thereon.

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

2. Actuarial equivalent. "Actuarial equivalent" means a benefit which is of equal value when computed at regular interest, based on the mortality and service tables adopted by the board of trustees.

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

3. Average final compensation. "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as a judge, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest; or [1989, c. 133, §15 (NEW).]

B. The average annualized rate of earnable compensation of a member during the entire period of creditable service if that period is less than 3 years. [1989, c. 133, §15 (NEW).]

If a member took one or more days off without pay during the fiscal year beginning July 1, 2002, as authorized by the State Court Administrator, and the member elects to make the contribution provided for in section 1306, the average final compensation must be determined as if the member had not taken those days off without pay.

[2003, c. 486, §1 (AMD) .]

4. Beneficiary. "Beneficiary" means any person who receives or is designated to receive a benefit provided by this chapter.

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

5. Board of trustees. "Board of trustees" means the board provided for in section 1231.

[1983, c. 863, Pt. B, §§ 8, 45 (AMD) .]

6. Child or children.

[1989, c. 133, §16 (RP) .]

6-A. Dependent child. "Dependent child" means:

A. Any unmarried, natural or legally adopted, born or unborn member's progeny, who is:

(1) Under 18 years of age; or

(2) Under 22 years of age and a full-time student; or [1989, c. 133, §17 (NEW).]

B. Regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment. [1989, c. 133, §17 (NEW) .]

[1989, c. 133, §17 (NEW) .]

7. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for All Urban Consumers, CPI-U, as compiled by the United States Department of Labor, Bureau of Labor Statistics; or, if the index is revised or superseded, the board shall employ the Consumer Price Index compiled by the Bureau of Labor Statistics, United States Department of Labor that the board of trustees finds to be most reflective of changes in the purchasing power of the dollar for the broadest population of consumers, including retired consumers.

[2003, c. 387, §1 (AMD) .]

8. Creditable service. "Creditable service" means membership service and prior service as a judge which is credited towards retirement in accordance with subchapter IV.

[1983, c. 863, Pt. B, §§ 8, 45 (AMD) .]

9. Earnable compensation. "Earnable compensation" means the annual salary as a judge. Any money paid by the State under an annuity contract for the future benefit of a judge must be considered part of the judge's earnable compensation. The earnable compensation of a member retired with a disability retirement allowance under section 1353 must be assumed, for the purposes of determining benefits under this chapter, to be continued after the member's date of termination of service at the same rate as received immediately prior thereto, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 1358. For a member who served as a judge any time between July 1, 2003 and June 30, 2005, earnable compensation includes the salary that would have been paid for a judge in the given year if the cost-of-living adjustments in fiscal year 2003-04 and fiscal year 2004-05 had been funded. For a member who served as a judge any time between July 1, 2010 and June 30, 2011, earnable compensation includes the salary that would have been paid for a judge in that year if the cost-of-living adjustment in fiscal year 2010-11 had been funded.

[2009, c. 571, Pt. MMM, §1 (AMD); 2009, c. 571, Pt. MMM, §3 (AFF) .]

10. Father.

[1989, c. 133, §18 (RP) .]

11. Fiduciary. "Fiduciary" means a bank or a professional investment manager.

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

11-A. Internal Revenue Code. "Internal Revenue Code" or "Code" means the United States Internal Revenue Code of 1986, as amended.

[2009, c. 474, §6 (NEW) .]

12. Judge. "Judge" means a Justice of the Supreme Judicial Court or the Superior Court, any Judge of the District Court, any Administrative Court Judge or any Associate Administrative Court Judge who is actively serving as of December 1, 1984, or who is appointed subsequent to December 1, 1984, but does not include Active Retired Judges.

[2001, c. 12, §1 (AMD) .]

13. Member. "Member" means a judge who is included in the membership of the Maine Judicial Retirement System as provided in section 1301.

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

14. Membership service. "Membership service" means service rendered while a member of the Maine Judicial Retirement System for which credit is allowed under section 1302.

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

15. Mother.

[1989, c. 133, §18 (RP) .]

16. Parent.

[1989, c. 133, §18 (RP) .]

16-A. Prior service. "Prior service" means all service before December 1, 1984, as a judge.

[1983, c. 863, Pt. B, §§ 9, 45 (NEW) .]

17. Regular interest. "Regular interest" means interest at the rate which the Board of Trustees of the Maine Public Employees Retirement System sets from time to time, in accordance with Title 5, section 17156.

[1989, c. 502, Pt. A, §10 (AMD); 2007, c. 58, §3 (REV) .]

18. Retirement. "Retirement" means the termination of membership service with a retirement allowance granted under this chapter.

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

19. Spouse. "Spouse" means the person currently legally married to a member.

[1989, c. 133, §19 (AMD) .]

20. Surviving spouse. "Surviving spouse" means the spouse alive at the time of the death of the member or former member.

[1989, c. 133, §20 (NEW) .]

SECTION HISTORY

1983, c. 853, §§15,18 (NEW). 1983, c. 863, §§B8,9,10,B4 5 (AMD). 1989, c. 133, §§15-20 (AMD). 1989, c. 502, §A10 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 12, §1 (AMD). 2003, c. 387, §1 (AMD). 2003, c. 486, §1 (AMD). 2007, c. 58, §3 (REV). 2007, c. 449, §1 (AMD). 2007, c. 449, §3 (AFF). 2009, c. 254, §1 (AMD). 2009, c. 254, §4 (AFF). 2009, c. 474, §6 (AMD). 2009, c. 571, Pt. MMMM, §1 (AMD). 2009, c. 571, Pt. MMMM, §3 (AFF).

§1202. NAME, ESTABLISHMENT AND PURPOSE

There is established the Judicial Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. [2009, c. 474, §7 (AMD).]

The purpose of the Judicial Retirement Program is to provide retirement allowances and other benefits under this chapter for judges. [2007, c. 491, §34 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 2007, c. 491, §34 (AMD). 2009, c. 474, §7 (AMD).

§1203. LEGAL PROCESS AND ASSIGNMENT

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's accumulated contributions, any death benefit, any other right accrued or accruing to a person under this chapter and the money in the various funds created by this chapter are not subject to execution, garnishment, attachment or any other process and are unassignable except that: [1991, c. 746, §10 (AFF); 1991, c. 746, §2 (RPR).]

1. Retirement allowance available for child support. A member's retirement allowance is available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

[1991, c. 746, §2 (NEW); 1991, c. 746, §10 (AFF) .]

2. Accumulated contributions available for child support. A member's accumulated contributions that are refundable under sections 1305-A and 1305-B are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

[2011, c. 606, §5 (AMD) .]

3. Qualified domestic relations order. The rights and benefits of a member or retiree under this chapter are subject to the rights of or assignment to an alternate payee, as defined in Title 5, section 17001, subsection 3-B, under a qualified domestic relations order in accordance with Title 5, section 17059; and

[2011, c. 606, §6 (AMD) .]

4. Forfeiture and restitution. The rights and benefits of a member or retiree under this chapter are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062.

[2011, c. 606, §7 (NEW) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B11,B45 (AMD). 1991, c. 746, §10 (AFF). 1991, c. 746, §2 (RPR). 2007, c. 137, §5 (AMD). 2011, c. 606, §§5-7 (AMD).

§1204. BENEFICIARIES UNDER DISABILITY

Any beneficiary who is entitled to make an election of benefits under Subchapter V, but is not lawfully qualified to make that election, shall have that election made in his behalf by the person authorized to do so by Title 18-A, Article V. [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

SECTION HISTORY

1983, c. 853, §C15,18 (NEW).

§1205. INTERNAL REVENUE CODE COMPLIANCE

The Judicial Retirement Program established in this chapter is subject to the following requirements. [2009, c. 474, §8 (NEW).]

1. Vesting. In compliance with the Code, Section 401(a)(7), a member is 100% vested in the member's contribution account at all times.

[2009, c. 474, §8 (NEW) .]

2. Use of forfeitures of benefits. In compliance with the Code, Section 401(a)(8), any forfeitures of benefits by members or former members may not be used to pay benefit increases, but must be used to reduce unfunded liabilities.

[2009, c. 474, §8 (NEW) .]

3. Benefits. In compliance with the Code, Section 401(a)(9), benefits must be paid in accordance with a good faith interpretation of the requirements of the Code, Section 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of the Code, Section 414(d).

[2009, c. 474, §8 (NEW) .]

4. Application of annual compensation limits. In compliance with the Code, Section 401(a)(17), applicable annual compensation limits must be applied for purposes of determining benefits or contributions due to the Maine Public Employees Retirement System.

[2009, c. 474, §8 (NEW) .]

5. Rollovers. In compliance with the Code, Section 401(a)(31), a member may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover.

[2009, c. 474, §8 (NEW) .]

6. Qualified military service. Effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service are governed by the Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

[2009, c. 474, §8 (NEW) .]

7. Additional requirements. In compliance with the Code, Section 415, the member contributions paid to and retirement benefits paid from the Judicial Retirement Program must be limited to the extent necessary to conform to the requirements of the Code, Section 415 for a qualified pension plan.

[2009, c. 474, §8 (NEW) .]

8. Compliance with Section 503(b). Effective July 1, 1989, the board of trustees may not engage in a transaction prohibited by the Code, Section 503(b).

[2009, c. 474, §8 (NEW) .]

9. Rules. The board of trustees shall adopt rules necessary to maintain the qualified pension plan tax status of the Judicial Retirement Program under the Internal Revenue Code as required for governmental defined benefit plans defined in the Code, Section 414(d). Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 474, §8 (NEW) .]

SECTION HISTORY

2009, c. 474, §8 (NEW) .

Subchapter 2: ADMINISTRATION

§1231. BOARD OF TRUSTEES

The Board of Trustees of the Judicial Retirement Program consists of those persons who are members of the Board of Trustees of the Maine Public Employees Retirement System. The Board of Trustees of the Judicial Retirement Program is responsible for the proper operation and implementation of the Judicial Retirement Program under this chapter. [2007, c. 491, §35 (AMD) .]

1. Duties. The board of trustees has the same duties with respect to the Judicial Retirement Program as with other programs of the Maine Public Employees Retirement System, including, but not limited to, those powers and duties enumerated in Title 5, chapter 421, subchapters 3, 4 and 5.

[2007, c. 491, §35 (AMD) .]

2. Administration of Judicial Retirement Program. The board of trustees shall administer the Judicial Retirement Program and is authorized to adopt and publish, in accordance with Title 5, chapter 375, subchapter 2, any rules necessary and proper to give effect to the intent, purposes and provisions of this chapter.

[2007, c. 491, §35 (AMD) .]

3. Expenses. The trustees must be compensated, as provided in Title 5, chapter 379, from the funds of the Judicial Retirement Program.

[2007, c. 491, §35 (AMD) .]

4. Oath. Each trustee shall, within 30 days after that trustee's appointment, take an oath of office to faithfully discharge the duties of a trustee, in the form prescribed by the Constitution of Maine. The oath must be subscribed to by the trustee making it, certified by the officer before whom it is taken and immediately filed in the office of the Secretary of State.

[2001, c. 181, §2 (AMD) .]

5. Quorum. Each voting trustee is entitled to one vote in the board of trustees. Five trustees constitute a quorum for the transaction of any business. Five votes are necessary for any resolution or action by the board of trustees at any meeting of the board of trustees.

[2007, c. 491, §35 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B12,13,B45 (AMD). 1989, c. 133, §21 (AMD). 1999, c. 127, §A1 (AMD). 1999, c. 790, §D4 (AMD). 2001, c. 181, §2 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §35 (AMD).

§1232. EXECUTIVE DIRECTOR

The Executive Director of the Maine Public Employees Retirement System is the Executive Director of the Judicial Retirement Program. The executive director has the same powers and duties with respect to the Judicial Retirement Program as with other programs of the Maine Public Employees Retirement System, except as provided in this chapter. [2007, c. 491, §36 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 2007, c. 58, §3 (REV). 2007, c. 491, §36 (AMD).

§1233. ACTUARY

The actuary of the other programs of the Maine Public Employees Retirement System is the Actuary of the Judicial Retirement Program. [2007, c. 491, §37 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 2007, c. 58, §3 (REV). 2007, c. 491, §37 (AMD).

§1234. MEDICAL BOARD

A medical board of the other programs of the Maine Public Employees Retirement System established in section 17106, subsection 1 is the medical board of the Judicial Retirement Program. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report in writing to the Supreme Judicial Court its conclusions and recommendations upon all the matters referred to it. The board of trustees may designate other physicians to provide medical consultation on judicial disability cases. [2007, c. 491, §38 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B14,B45 (AMD). 1995, c. 643, §2 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §38 (AMD).

§1235. ADMINISTRATIVE PROCEDURES

Appeal from the executive director's decision is the same as provided for other programs of the Maine Public Employees Retirement System in Title 5, section 17451. [2007, c. 491, §39 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1989, c. 133, §22 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §39 (AMD).

§1236. LEGAL ADVISER

The Attorney General or an assistant designated by the Attorney General is the legal adviser of the Board of Trustees of the Judicial Retirement Program. [2007, c. 491, §40 (AMD).]

SECTION HISTORY

1983, c. 863, §§B15,B45 (NEW). 2007, c. 491, §40 (AMD).

Subchapter 3: FINANCING

§1251. CONTROL OF FUNDS

The board of trustees is the trustee of the funds created by this chapter and shall administer those funds in the same manner as is provided for the administration of the other program funds of the Maine Public Employees Retirement System in accordance with Title 5, chapter 421, subchapters 3 and 4. The board of trustees may establish separate funds or accounts within a fund, as necessary. [2007, c. 491, §41 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1989, c. 133, §23 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §41 (AMD).

§1252. CUSTODIAN OF FUNDS

(REPEALED)

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 2007, c. 249, §7 (RP).

§1253. EXPENSES

All administrative operating expenses of the Judicial Retirement Program must be charged to the assets of the Judicial Retirement Program. [2007, c. 491, §42 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 2007, c. 240, Pt. U, §3 (RPR). 2007, c. 491, §42 (AMD).

§1254. INVESTMENTS

The board of trustees may combine funds from the Judicial Retirement Program and assets of other programs of the Maine Public Employees Retirement System for investment purposes. The assets and funds of other programs of the Maine Public Employees Retirement System and the assets and funds of the Judicial Retirement Program may not be combined for benefit payment purposes or for administrative expenses. [2007, c. 491, §43 (AMD).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B16,B45 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §43 (AMD).

§1255. LEGISLATIVE FINDINGS AND INTENT

1. Findings. The Legislature finds that the State owes a great debt to its retired judges for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to judges through the Judicial Retirement Program.

[2007, c. 491, §44 (AMD) .]

2. Intent. It is the intent of the Legislature that there is appropriated and transferred annually to the Judicial Retirement Program the funds necessary to meet the program's long-term and short-term financial obligations based on the actuarial assumptions established by the board of trustees upon the advice of the actuary. The goal of the actuarial assumptions is to achieve a fully funded program. The program's unfunded

liability for members formerly subject to sections 5, 103 and 157-A, is funded by annual appropriations over the funding period of the program. This section does not apply to justices and judges who retired prior to December 1, 1984.

[2007, c. 491, §44 (AMD) .]

3. Implementation. It is the responsibility of the board of trustees to calculate the funds necessary to maintain the program on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and to transmit those calculations to the State Budget Officer as required by Title 5, sections 1661 to 1667. It is the responsibility of the Legislature to appropriate and transfer those funds annually.

[2007, c. 491, §44 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B17,B45 (AMD). 2007, c. 491, §44 (AMD).

Subchapter 4: MEMBERSHIP AND CONTRIBUTION

§1301. MEMBERSHIP

Every judge serving on the court on or after December 1, 1984 must be a member of the Judicial Retirement Program as a condition of employment. [2009, c. 415, Pt. A, §2 (AMD).]

A member shall cease to be a member when he withdraws his contributions, becomes a beneficiary as a result of his own retirement or dies. [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

The State Court Administrator shall submit to the board a statement showing the name, title, compensation, sex, date of birth and length of service of each member and any other information as the board may require at such times as the board may require. [1983, c. 863, Pt. B, §§ 18, 45 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B18,B45 (AMD). 2009, c. 415, Pt. A, §2 (AMD).

§1302. CREDITABLE SERVICE

Creditable service for the purpose of determining benefits under this chapter shall be allowed as follows: [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

1. Membership service. All judicial service of a member after November 30, 1984, for which contributions are made shall be allowed as creditable service.

[1989, c. 133, §24 (AMD) .]

1-A. Prior service. All service of a member as a judge before December 1, 1984, shall be allowed as creditable service.

[1983, c. 863, Pt. B, §§ 19, 45 (NEW) .]

2. Disability retirement. The period following the termination of service for which a beneficiary receives disability retirement allowance payments under section 1353 shall be allowed as membership service.

[1983, c. 863, Pt. B, §§ 19, 45 (AMD) .]

3. State Employee and Teacher Retirement Program and Legislative Retirement Program service.

Creditable service as a member of the State Employee and Teacher Retirement Program or the Legislative Retirement Program must be allowed as creditable service of the Judicial Retirement Program as follows.

A. Any member who has not withdrawn that member's accumulated contributions with the State Employee and Teacher Retirement Program may, upon appointment as a judge, have that member's State Employee and Teacher Retirement Program contributions and membership service transferred to that member's account with the Judicial Retirement Program and all creditable service resulting from membership in the State Employee and Teacher Retirement Program is creditable service in the Judicial Retirement Program.

All funds in the State Employee and Teacher Retirement Program contributed by the employer on account of employment are transferred to the Judicial Retirement Program and must be used to liquidate the liability incurred by reason of that member's previous employment. The State shall make such contributions, from time to time, as may be necessary to provide the benefits under the Judicial Retirement Program for the member as have accrued to the member by reason of the member's previous employment and may accrue to the member by reason of membership in the Judicial Retirement Program. [2007, c. 491, §45 (AMD).]

A-1. Any member who has not withdrawn that member's accumulated contributions with the Legislative Retirement Program may, upon appointment as a judge, elect to have that member's Legislative Retirement Program contributions and membership service transferred to that member's account with the Judicial Retirement Program and have all creditable service resulting from membership in the Legislative Retirement Program count as creditable service in the Judicial Retirement Program. The member must pay an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit that results from inclusion of the creditable service in the Legislative Retirement Program as creditable service in the Judicial Retirement Program.

All funds in the Legislative Retirement Program contributed by the employer on account of the member's previous membership in the Legislative Retirement Program are transferred to the Judicial Retirement Program and must be used to liquidate the liability incurred by reason of that member's previous membership. [2009, c. 267, §1 (NEW).]

B. Any member who has withdrawn that member's accumulated contributions from the State Employee and Teacher Retirement Program or the Legislative Retirement Program may, subsequent to appointment as a judge and prior to the date any retirement allowance becomes effective for that member, deposit in the fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions withdrawn by that member together with interest at 2% greater than regular interest from the date of withdrawal to the date of repayment. If repayment is made in installments, interest continues to accrue on the outstanding balance. The member is entitled to all creditable service that the member acquired during previous membership. In the event any retirement allowance becomes effective before repayment is completed, the member is entitled to credit for that portion of the total of the previous creditable service which the total amount of payments actually made bears to the total amount, including interest at 2% greater than regular interest from the date of withdrawal to the date the retirement allowance becomes effective. [2009, c. 267, §1 (AMD).]

C. [1985, c. 693, §8 (RP).]

D. A person may not receive benefits under both the Judicial Retirement Program and the State Employee and Teacher Retirement Program or the Legislative Retirement Program based upon the same period of service. [2009, c. 267, §1 (AMD).]

[2009, c. 267, §1 (AMD).]

4. Amount of service per year. The board shall establish by rule the amount of creditable service to be granted for service rendered during a year, subject to the following conditions.

A. No credit may be allowed for a period of absence without pay of more than one month's duration; and [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

B. No more than one year of service may be credited for all service in one calendar year. [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B19,B45 (AMD). 1985, c. 693, §8 (AMD). 1989, c. 133, §24 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §45 (AMD). 2009, c. 267, §1 (AMD).

§1303. STATE CONTRIBUTION

1. Payment. For each member, the State shall pay annually into the fund an amount known as the employer contribution.

[1989, c. 133, §25 (AMD) .]

2. Employer contribution rate. The rate of the employer contribution is fixed on the basis of the assets and liabilities of the Judicial Retirement Program as shown by actuarial valuation and is expressed as a percentage of the annual earnable compensation of each member.

A. The employer contribution rate represents the percentage of the members' compensation payable during periods of membership required to provide the difference between the total liabilities for retirement allowances not provided by the members' contributions and the amount of the assets in the fund. [2007, c. 491, §46 (AMD).]

B. The employer contribution rate is determined on actuarial bases adopted by the board of trustees. The rate is determined by the board of trustees after each valuation and continues in force until a new valuation is made. [2007, c. 491, §46 (AMD).]

[2007, c. 491, §46 (AMD) .]

3. State contribution procedure. The board of trustees shall submit budget estimates to the State Budget Officer in accordance with Title 5, section 1665. On each payroll for judges from which retirement contributions are deducted, the State Controller shall cause a charge to be made of an amount or amounts in payment of the state costs of all charges related to the Judicial Retirement Program and which must be credited to the appropriate accounts of the fund. Percentage rates to be predetermined by the actuary and approved by the board of trustees must be applied to the total gross salaries of members appearing on those payrolls and the resultant charges must be periodically credited to the retirement fund.

[2007, c. 491, §46 (AMD) .]

4. Minimum amount of employer contribution. The aggregate payment by the State into the fund must be at least sufficient to provide the benefits payable out of the fund and the administrative operating expenses of the Judicial Retirement Program during the current year.

[2007, c. 491, §46 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B20,B45 (AMD). 1989, c. 133, §25 (AMD). 2007, c. 240, Pt. U, §4 (AMD). 2007, c. 491, §46 (AMD).

§1304. EMPLOYEES' CONTRIBUTIONS

On and after July 1, 1993, each member in service shall contribute at a rate of 7.65% of earnable compensation, except that judges whose earnable compensation includes imputed cost-of-living adjustments under section 1201, subsection 9, shall contribute based on the compensation actually paid. [2007, c. 449, §2 (AMD); 2007, c. 449, §3 (AFF).]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B21,B45 (AMD). 1989, c. 133, §26 (AMD). 1993, c. 410, §L4 (AMD). 2007, c. 449, §2 (AMD). 2007, c. 449, §3 (AFF).

§1305. RETURN OF ACCUMULATED CONTRIBUTIONS

(REPEALED)

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1989, c. 133, §27 (AMD). 1993, c. 387, §A2 (AMD). 1997, c. 651, §2 (AMD). 2007, c. 137, §6 (RP).

§1305-A. REFUND OF ACCUMULATED CONTRIBUTIONS

1. Conditions for refund. If the service of any member has terminated, except by death or by retirement under this chapter, the member must be paid the amount of the member's accumulated contributions under the following conditions:

- A. The member must have properly applied for a refund of accumulated contributions; [2007, c. 137, §7 (NEW).]
- B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears; [2007, c. 137, §7 (NEW).]
- C. An application for refund is void if the member filing the application returns to membership in any retirement program administered by the Maine Public Employees Retirement System before issuance of the payment; and [2007, c. 491, §47 (AMD).]
- D. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection. [2007, c. 137, §7 (NEW).]

[2007, c. 491, §47 (AMD) .]

SECTION HISTORY

2007, c. 58, §3 (REV). 2007, c. 137, §7 (NEW). 2007, c. 491, §47 (AMD).

§1305-B. INACTIVE ACCOUNTS

1. Conditions for refund. The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 1305-A and who has terminated service, except by death or by retirement under this chapter, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

- A. The member account in the retirement system has been inactive for 3 or more years; [2007, c. 137, §8 (NEW).]
- B. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and [2007, c. 137, §8 (NEW).]

C. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit. [2007, c. 137, §8 (NEW) .]

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this section may not exceed \$1,000.

[2009, c. 474, §9 (AMD) .]

SECTION HISTORY

2007, c. 137, §8 (NEW). 2009, c. 474, §9 (AMD).

§1306. BACK CONTRIBUTION FOR CERTAIN DAYS OFF WITHOUT PAY

1. Election. If the Maine Public Employees Retirement System determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for fiscal year 2002-03 days off without pay as described in section 1201, subsection 3, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

[2007, c. 491, §48 (AMD) .]

2. Payment. The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that person would have made on wages that would have been paid to that person on the days off without pay during the 2002-03 fiscal year as described in section 1201, subsection 3, plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. If the member elects to make the payment, the Maine Public Employees Retirement System shall withhold the required amount from the member's first retirement benefit check.

[2009, c. 474, §10 (AMD) .]

3. Benefit calculation. If the member fails to make the election within 31 days of the notification provided under subsection 1, the Maine Public Employees Retirement System shall calculate the member's retirement benefit without inclusion of the days off without pay during the 2002-03 fiscal year.

[2007, c. 491, §48 (AMD) .]

SECTION HISTORY

2003, c. 486, §2 (NEW). 2007, c. 491, §48 (AMD). 2009, c. 474, §10 (AMD) .

Subchapter 5: PAYMENT OF BENEFITS

§1351. ELIGIBILITY FOR RETIREMENT

Upon written application to the board setting forth the date upon which the member chooses to retire, any member may retire upon meeting one of the following. [1991, c. 528, Pt. EEE, §2 (AMD); 1991, c. 528, Pt. EEE, §18 (AFF); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. EEE, §2 (AMD); 1991, c. 591, Pt. EEE, §18 (AFF).]

1. Age 60; at least 10 years of creditable service on July 1, 1993. Any member who on July 1, 1993 had at least 10 years of creditable service may retire on or after the member's 60th birthday.

[1999, c. 756, §5 (AMD) .]

1-A. Age 62; less than 10 years of creditable service on July 1, 1993. Any member who on July 1, 1993 had less than 10 years of creditable service may retire on or after the member's 62nd birthday if:

A. The member has at least 10 years of creditable service; or [1999, c. 756, §6 (NEW) .]

B. The member has at least 5 years of creditable service and:

(1) Was in service on October 1, 1999;

(2) Had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999. [1999, c. 756, §6 (NEW) .]

[1999, c. 756, §6 (NEW) .]

1-B. At least 5 years creditable service on July 1, 2011. Eligibility for retirement for a member who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 1 if the member had 10 years of creditable service on July 1, 1993 or by subsection 1-A, if the member had less than 10 years of creditable service on July 1, 1993.

[2011, c. 380, Pt. T, §5 (NEW) .]

1-C. Less than 5 years creditable service on July 1, 2011. A member who on July 1, 2011 had less than 5 years of creditable service may retire at 65 years of age or thereafter, whether or not the member is in service at retirement, as long as the member has at the time of retirement at least 5 years of creditable service.

[2011, c. 380, Pt. T, §6 (NEW) .]

2. Age 70. Any member in service may retire on or after the member's 70th birthday, provided that the member has been in service, as a judge, for at least one year immediately before retirement.

[1991, c. 528, Pt. EEE, §2 (AMD); 1991, c. 528, Pt. EEE, §18 (AFF); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. EEE, §2 (AMD); 1991, c. 591, Pt. EEE, §18 (AFF) .]

2-A. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at applicable age; applicability. The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-A, 1-B or 1-C applies only to:

A. A member who was in service on October 1, 1999; [1999, c. 756, §7 (NEW) .]

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or [1999, c. 756, §7 (NEW) .]

C. A member who was first in service on or after October 1, 1999. [1999, c. 756, §7 (NEW) .]

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

[2011, c. 380, Pt. T, §7 (AMD) .]

3. Early retirement; at least 10 years of creditable service on July 1, 1993. Any member, whether or not in service at retirement, who on July 1, 1993 had at least 10 years of creditable service and who has completed at least 25 years of creditable service may retire any time before the member's 60th birthday. The retirement allowance is determined in accordance with section 1352, except that it is reduced by multiplying the retirement allowance by a fraction that represents the ratio of the amount of a life annuity due at age 60 to the amount of a life annuity due at the age of retirement. The tables of annuities in effect at the date of retirement are used for this purpose.

For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, section F-6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

[1999, c. 756, §8 (AMD) .]

3-A. Early retirement; less than 10 years creditable service on July 1, 1993. Any member, whether or not in service at retirement, who on July 1, 1993 had less than 10 years of creditable service and who has completed at least 25 years of creditable service may retire any time before the member's 62nd birthday. The retirement allowance is determined in accordance with section 1352, except that the benefit is reduced by 6% for each year that the member's age precedes age 62.

[1999, c. 756, §9 (AMD) .]

3-B. Early retirement; less than 5 years creditable service on July 1, 2011. Any member, whether or not in service at retirement, who on July 1, 2011 had less than 5 years of creditable service and who had completed at least 25 years of creditable service may retire any time before the member's 65th birthday. The retirement allowance is determined in accordance with section 1352, except that the benefit is reduced by 6% for each year that the member's age precedes age 65.

[2011, c. 380, Pt. T, §8 (NEW) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B22,B45 (AMD). 1985, c. 693, §9 (AMD). 1991, c. 528, §EEE2 (AMD). 1991, c. 528, §EEEE18,RRR (AFF). 1991, c. 591, §EEE2 (AMD). 1991, c. 591, §EEEE18 (AFF). 1993, c. 410, §§L5-8 (AMD). 1999, c. 756, §§5-9 (AMD). 1999, c. 756, §6 (AMD). 2011, c. 380, Pt. T, §§5-8 (AMD).

§1352. RETIREMENT BENEFITS

1. Amount. The service retirement allowance of a member is determined under the provisions of this chapter in effect on the member's date of final termination of service. Subject to the maximum benefit provided for in subsection 3-A and the minimum benefit provided for in subsection 4, the total amount of the retirement allowance of a member retired in accordance with section 1351 is equal to the sum of:

A. 1/50 of the member's average final compensation multiplied by the number of years of membership service, from December 1, 1984 to June 30, 1998 and creditable service allowed under section 1302, subsection 3; [1997, c. 643, Pt. M, §12 (AMD) .]

B. The earned benefit for prior service as a judge as determined by subsection 2; and [1997, c. 643, Pt. M, §12 (AMD) .]

C. Three percent of the member's average final compensation multiplied by the number of years of membership service beginning July 1, 1998. [1997, c. 643, Pt. M, §12 (NEW).]

[2001, c. 439, Pt. VV, §1 (AMD) .]

2. Benefit for service prior to December 1, 1984. The earned benefit for judicial service prior to December 1, 1984, is equal to the years of service prior to December 1, 1984, not to exceed 10 years, divided by 10, multiplied by 75% of the salary as of November 30, 1984, for the position from which the judge retired.

[1997, c. 643, Pt. M, §12 (AMD) .]

3. Maximum benefit.

[2001, c. 439, Pt. VV, §2 (RP) .]

3-A. Maximum benefit. Except as provided in subsection 4, a judge in service on December 1, 1984, or appointed on or after December 1, 1984, may not receive a benefit that exceeds 70% of that judge's average final compensation, not including adjustments under section 1358. The benefit amount of any judge retired prior to the effective date of this subsection whose benefit amount was limited according to the terms of former subsection 3 must be recalculated according to this subsection and the recalculated amount must be paid retroactive to the judge's effective date of retirement.

[2001, c. 439, Pt. VV, §3 (NEW) .]

4. Minimum benefit. Each judge in service on December 1, 1984, who is 50 years of age or older on that date is entitled to a minimum benefit equal to 75% of the salary as of June 30, 1984, for the position from which the judge retired, increased by 6% compounded annually, for each year or part of a year served subsequent to June 30, 1984, up to and including June 30, 1989. For each year or part of a year served after June 30, 1989, the allowance is increased by an amount equal to the cost-of-living factor granted the previous September, as determined pursuant to section 1358, compounded annually.

[1997, c. 643, Pt. M, §12 (AMD) .]

5. Termination of benefits. The service retirement benefit of a judge ceases upon the return to service as a judge. A judge returned to service continues to earn credit toward retirement.

[1997, c. 643, Pt. M, §12 (AMD) .]

6. Service beyond age 70.

[1989, c. 133, §28 (RP) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B23-25,B45 (AMD). 1985, c. 693, §10 (AMD). 1985, c. 737, §§C3,6 (AMD). 1989, c. 133, §28 (AMD). 1997, c. 643, §M12 (AMD). 2001, c. 439, §§VV1-3 (AMD).

§1353. DISABILITY RETIREMENT

1. Conditions. Any member who becomes disabled while in service may receive a disability retirement allowance by order of at least 5 Justices of the Supreme Judicial Court or upon written application to the executive director, review and report of the application by the medical board and approval of that application by at least 5 of the Justices of the Supreme Judicial Court if that member is mentally or physically incapacitated to the extent that it is impossible for that member to perform the duties as a judge and the

incapacity is expected to be permanent, as shown by medical examination or tests. A qualified physician mutually agreed upon by the executive director and member shall conduct the examinations or tests at an agreed upon place, and the costs must be paid by the Maine Public Employees Retirement System.

A. [1991, c. 887, §1 (RP).]

B. [1991, c. 887, §1 (RP).]

[1991, c. 887, §1 (AMD); 2007, c. 58, §3 (REV) .]

1-A. Eligibility for disability.

A. A member with less than 5 years of continuous creditable service immediately preceding an application for a disability allowance is not eligible for that disability retirement allowance if that disability is the result of a physical or mental condition which existed prior to the person's latest membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty. [2007, c. 491, §49 (AMD).]

B. [1997, c. 384, §1 (RP).]

[2007, c. 491, §49 (AMD) .]

2. Amount. When a member qualified under subsection 1 and, if applicable, subsection 1-A, paragraph A, retires, the amount of a disability retirement allowance is 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under Title 5, section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years after that time. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered under subsection 1 as written prior to its amendment by Public Law 1991, chapter 887, section 1 may receive a disability retirement allowance when, in addition to meeting the requirements of subsection 1, the member has not completed the eligibility requirements for retirement under section 1351, subsection 1, 1-A or 2. When such a member is entitled to receive a disability retirement allowance, the amount of the allowance is 66 2/3% of the member's average final compensation.

[1997, c. 384, §2 (AMD) .]

3. Commencement. Disability retirement allowance payments shall commence on the first day of the month following the date of termination of active service of the member. Termination of active service shall create a vacancy on the court.

[1989, c. 133, §29 (AMD) .]

4. Continuance. Payment of a disability retirement allowance shall continue subject to subsection 7 and the following conditions.

A. During the first 2 years, the allowance continues as long as the beneficiary can not perform the duties of a judge. [1991, c. 633, (AMD).]

B. After that period, the allowance shall continue only if the beneficiary is unable to engage in any substantially gainful activities for which he is qualified by training, education or experience. [1983, c. 853, Pt. C, §§15, 18 (NEW).]

C. The executive director may require the beneficiary to undergo annual medical examinations or tests for the purpose of determining whether the beneficiary is incapacitated. These examinations or tests must be conducted by a qualified physician, mutually agreed upon by the executive director and beneficiary, at a place also mutually agreed upon, and the costs of the examination or tests must be paid by the Maine Public Employees Retirement System. If the beneficiary refuses to submit to an examination or tests, the beneficiary's disability allowance ceases until the beneficiary agrees to the examination or tests. If the beneficiary's refusal continues for one year, all rights to any further benefits under this section terminate. [2007, c. 491, §50 (AMD).]

D. For purposes of this subsection, the disability beneficiary's average final compensation at retirement shall be used to determine his earning capacity in the relation to his ability to engage in a substantially gainful activity. It shall be adjusted by the same percentage, if any, as applied to the beneficiary's retirement allowance under section 1358. [1983, c. 863, Pt. B, §§26, 45 (AMD).]

[2007, c. 491, §50 (AMD) .]

5. Earnings. The executive director may require each disability beneficiary to submit an annual statement of earnings received from any gainful occupation during that year. For any year during which the total of those earnings and the disability allowance exceeds the current salary of the position that the disabled beneficiary last held, the excess must be deducted from any disability retirement allowance payments made to the beneficiary during the next calendar year. These deductions are prorated on a monthly basis, in an equitable manner prescribed by the board of trustees, over the year or part of the year for which benefits are received. The beneficiary is responsible for reimbursing the Maine Public Employees Retirement System for any excess earnings not so deducted.

If a beneficiary does not submit an earnings statement within 30 days of receiving a request from the executive director, the disability retirement allowance is discontinued until the statement is submitted. If the statement is not submitted within one year of receiving a request, all the beneficiary's rights to any further benefits cease.

[2007, c. 491, §51 (AMD) .]

6. Reduction. The disability retirement allowance must be reduced if a disability beneficiary is receiving or has received payments for the same disability under the workers' compensation law, or similar law, except for amounts that may be paid or payable under former Title 39, section 56 or 56-A or Title 39-A, section 212, subsection 2 or 3.

The total of the allowance, not including adjustments under section 1358 and the payment described in the preceding paragraph, may not exceed 80% of the beneficiary's average final compensation. The disability retirement allowance may in no event be reduced below the actuarial equivalent of the beneficiary's accumulated contributions at the time of retirement.

If the disability beneficiary has received a lump-sum settlement of workers' compensation benefits, any portion of that settlement not attributable to vocational rehabilitation, attorneys' fees or medical expenses must reduce the disability retirement allowance in the same manner and amount as monthly workers' compensation benefits. The reduction must be prorated on a monthly basis in an equitable manner prescribed by the board.

If amounts paid or payable under workers' compensation or the amount of the lump-sum settlement or its attribution are in dispute, those disputes must be settled by a single member of the Workers' Compensation Board as provided under Title 39-A. Determinations of the commissioner may be appealed in the manner provided by Title 39-A, section 322.

[1991, c. 885, Pt. E, §5 (AMD); 1991, c. 885, Pt. E, §47 (AFF) .]

7. Change to service retirement.

A. The disability retirement allowance of a beneficiary must cease whenever the service retirement allowance of the beneficiary would equal or exceed the amount of the member's disability retirement allowance. For a member who by election or by having retired on disability retirement prior to October 16, 1992 remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 3, the disability retirement allowance must cease at age 70, or prior to that age, whenever the service retirement allowance would equal or exceed the amount of the disability retirement allowance. [1997, c. 384, §3 (AMD).]

B. A service retirement allowance shall be paid to the beneficiary commencing on the date of termination of the disability retirement allowance as determined in paragraph A. [1983, c. 853, Pt. C, §§15, 18 (NEW).]

[1997, c. 384, §3 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B26,B45 (AMD). 1989, c. 133, §29 (AMD). 1991, c. 633, (AMD). 1991, c. 885, §E5 (AMD). 1991, c. 885, §E47 (AFF). 1991, c. 887, §§1-3 (AMD). 1993, c. 595, §1 (AMD). 1995, c. 643, §3 (AMD). 1997, c. 384, §§1-3 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §§49-51 (AMD).

§1354. RESTORATION TO SERVICE

(REPEALED)

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B27,B45 (RP).

§1355. ORDINARY DEATH BENEFITS

If a member who is in service or a former member who is a recipient of a disability retirement allowance dies, the member's beneficiary, or relative if the member has no designated beneficiary, is entitled to benefits on the same basis as provided for beneficiaries of state employees who are members of the State Employee and Teacher Retirement Program by Title 5, chapter 423, subchapter 5, article 3. [2007, c. 491, §52 (AMD) .]

1. Death before eligibility for service retirement.

[1989, c. 133, §30 (RP) .]

2. Death after eligibility for retirement.

[1989, c. 133, §30 (RP) .]

3. Election of benefits.

[1989, c. 133, §30 (RP) .]

4. Cost-of-living adjustments.

[1989, c. 133, §30 (RP) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B28-30,B45 (AMD). 1989, c. 133, §30 (RPR). 2007, c. 58, §3 (REV). 2007, c. 491, §52 (AMD).

§1355-A. MINIMUM ORDINARY DEATH BENEFITS

1. Benefit. Notwithstanding the provisions of section 1355, any eligible surviving spouse and dependent child or children of a judge who was in service prior to December 1, 1984, shall, upon the death of that judge, be entitled to a minimum benefit of 1/2 the retirement benefit of the judge, determined in accordance with section 1352, on the assumption that retirement of the judge had taken place on the date of death. If more than one child is eligible for this benefit, it shall be divided equally among them. This benefit shall continue as long as the spouse or child or children remain eligible.

[1989, c. 133, §31 (AMD) .]

2. Eligibility. Eligibility for the minimum benefit of this section is determined as follows.

A. A surviving spouse is eligible as long as that spouse does not become the dependent of another person. [1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

B. The dependent child or children are eligible until they no longer meet the definition of "dependent child" under section 1201, subsection 6-A. [1989, c. 133, §32 (AMD) .]

[1989, c. 133, §32 (AMD) .]

3. Election of benefits. The benefits described in this section shall be instead of any benefits payable under either section 1355 or section 1356.

Any person entitled to receive benefits under this section may elect, before benefit payments begin, to receive benefits under section 1355 or section 1356 instead of these benefits, if all requirements of that section are complied with.

[1983, c. 863, Pt. B, §§ 32, 45 (NEW) .]

4. Cost-of-living adjustments. Payments made under subsection 1 shall be adjusted pursuant to section 1358 in the same manner as retirement allowances.

[1983, c. 863, Pt. B, §§ 32, 45 (NEW) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B31,32,B45 (AMD). 1989, c. 133, §§31,32 (AMD).

§1356. ACCIDENTAL DEATH BENEFITS

If a member or a former member who is receiving a disability retirement allowance dies as a result of an injury received in the line of duty, benefits are paid on the same basis as provided for members of the State Employee and Teacher Retirement Program by Title 5, chapter 423, subchapter 5, article 5. [2007, c. 491, §53 (AMD) .]

1. Benefit.

[1989, c. 133, §33 (RP) .]

2. Reduction and termination.

[1989, c. 133, §33 (RP) .]

3. Election of benefits.

[1989, c. 133, §33 (RP) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B33,34,B45 (AMD). 1989, c. 133, §33 (RPR). 2007, c. 58, §3 (REV). 2007, c. 491, §53 (AMD).

§1357. PAYMENT OF REGULAR RETIREMENT ALLOWANCES

1. Normal method of payment. Payment of all regular retirement allowances shall begin on the first day of the month following the month in which the member becomes eligible to receive payment of regular retirement allowance under section 1351 or 1353, subsection 7. A full month's allowance shall be paid to the beneficiary or estate of the recipient for the month in which the member dies. All regular retirement allowances shall be paid for life in equal monthly installments, unless an alternative method of payment under one of the options of subsection 2 has been elected.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who is the recipient of a retirement allowance under the normal method of payment, the surviving spouse who is the named beneficiary at the date of retirement shall become entitled to 1/2 of the amount being paid at the time of the member's death which payment shall continue for the remainder of the spouse's lifetime.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who becomes the recipient of a disability retirement allowance, the surviving spouse who is the named beneficiary shall become entitled to 1/2 the amount that the member would have been entitled to as a service retirement allowance under the normal method of payment as of the date of the member's death.

[1989, c. 133, §34 (AMD) .]

2. Optional methods of payment. In lieu of payment under subsection 1, a qualifying member may elect to receive a regular retirement allowance under one of the options set out in this subsection. The optional allowance is a reduced allowance computed actuarially on the basis of the option selected.

The qualifying member may elect one of the options by written request to and approval of the executive director prior to the commencement of payment of a regular retirement allowance. The election may be revoked by written notice to the executive director at any time before the regular retirement allowance commences.

For the purposes of this subsection, "qualifying member" means a member or a former member who is receiving a disability retirement benefit.

A. Under Option 1, the qualifying member may elect to have a reduced retirement benefit paid to the qualifying member while alive and at the qualifying member's death to have the excess, if any, of the qualifying member's accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary that the qualifying member has nominated by written designation duly notarized and filed with the executive director or, if no one has been nominated as beneficiary, to the qualifying member's estate. [1999, c. 744, §17 (AFF); 1999, c. 744, §1 (RPR).]

B. Under Option 2, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary that the qualifying member has nominated by

written designation duly notarized and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member. [1999, c. 744, §17 (AFF); 1999, c. 744, §1 (RPR).]

C. Under Option 3, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary that the qualifying member has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member. [1999, c. 744, §17 (AFF); 1999, c. 744, §1 (RPR).]

D. Under Option 4, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under paragraphs B or C payable to the beneficiary that the qualifying member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board of trustees, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System. [2007, c. 491, §54 (AMD).]

E. Under Option 5, the qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board of trustees, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System. [2007, c. 491, §55 (AMD).]

F. Under Option 6, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [2007, c. 491, §56 (AMD).]

G. Under Option 7, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [2007, c. 491, §57 (AMD).]

H. Under Option 8, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have some benefit other than that available under paragraph B or C payable to the beneficiary that the member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [1999, c. 744, §1 (NEW); 1999, c. 744, §17 (AFF).]

[2007, c. 491, §§54-57 (AMD) .]

3. Change of beneficiary. If the recipient of a service retirement benefit has elected an optional method of payment under subsection 2, paragraphs B to H, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the Maine Public Employees Retirement System. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit. [2009, c. 415, Pt. A, §3 (RPR).]

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 2, paragraph E has been elected, the new beneficiary's benefit must become effective on the same date. [2009, c. 415, Pt. A, §3 (RPR).]

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

- (1) The date of the new beneficiary's death; or
- (2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2). [2009, c. 415, Pt. A, §3 (RPR).]

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C. [2009, c. 415, Pt. A, §3 (RPR).]

[2009, c. 415, Pt. A, §3 (RPR) .]

4. Notice to spouse. A qualifying member who is married on the effective date of retirement, who elects the method of payment under subsection 1 and is not covered by the automatic spousal benefits provisions in that subsection, or who elects a method of payment other than that provided under subsection 1 and who designates a beneficiary other than the qualifying member's spouse must notify the spouse that the spouse is not the beneficiary. Proof that the spouse has been notified must be provided:

Payment of the qualifying member's service benefit may not commence until certification has been received by the executive director.

A. By written certification of the spouse, duly notarized, on a form provided or specified by the Maine Public Employees Retirement System indicating that notice has been received from the qualifying member; or [2007, c. 491, §59 (AMD).]

B. When notice has been given, but certification by the spouse has not been provided, by written certification of the qualifying member, duly notarized, on a form provided or specified by the Maine Public Employees Retirement System indicating that notice has been given to the spouse. [2007, c. 491, §60 (AMD).]

[2007, c. 491, §§59, 60 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B35,B45 (AMD). 1985, c. 475, §§1,4 (AMD). 1989, c. 133, §34 (AMD). 1999, c. 744, §§1,2 (AMD). 1999, c. 744, §17 (AFF). 2007, c. 491, §§54-60 (AMD). 2007, c. 523, §1 (AMD). 2009, c. 415, Pt. A, §3 (AMD).

§1358. COST-OF-LIVING AND OTHER ADJUSTMENTS

1. Cost-of-living adjustments. Except as provided in subsection 2, paragraph A, retirement allowances under this chapter must be adjusted on the same basis as provided for members of the State Employee and Teacher Retirement Program by Title 5, section 17806.

A. [2011, c. 380, Pt. T, §9 (RP).]

A-1. [2011, c. 380, Pt. T, §9 (RP).]

B. [2011, c. 380, Pt. T, §9 (RP).]

C. [2011, c. 380, Pt. T, §9 (RP).]

D. [2011, c. 380, Pt. T, §9 (RP).]

[2011, c. 380, Pt. T, §9 (RPR) .]

2. Retirement allowances. Retirement allowances under section 1352, subsection 4.

A. Beginning in July 1985, and each July thereafter, through July 1989, retirement allowances under section 1352, subsection 4, shall be increased by 6% compounded annually. [1985, c. 693, §11 (NEW) .]

B. Beginning in September 1990, and each September thereafter, retirement allowances under section 1352, subsection 4, shall be adjusted as provided in subsection 1. [1985, c. 693, §11 (NEW) .]

[1985, c. 693, §11 (NEW) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B36,B45 (AMD). 1985, c. 693, §11 (RPR). 1993, c. 410, §§L8-A (AMD). 1993, c. 595, §2 (AMD). 2007, c. 249, §8 (AMD). 2009, c. 433, §§1, 2 (AMD). 2009, c. 473, §1, 2 (AMD). 2011, c. 380, Pt. T, §9 (AMD).

§1359. TERMINATION OF RETIREMENT BENEFITS FOR CONFLICT OF INTEREST

(REPEALED)

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B37,B45 (RP).

§1360. REMARRIAGE AFTER RETIREMENT

If a retiree who is the recipient of a reduced regular retirement allowance under section 1357, subsection 2, paragraph B, C, D or E remarries after the retiree's spouse dies, the following provisions apply. [1999, c. 744, §3 (AMD); 1999, c. 744, §17 (AFF).]

1. Election of benefit for new spouse. The retiree may elect to have the reduced retirement benefit paid under the same option to the new spouse after the retiree's death instead of continuing the original reduced retirement allowance to the retiree during the retiree's lifetime, under the following conditions:

A. The original spouse must have been the sole beneficiary of the reduced retirement allowance under section 1357, subsection 2, paragraph B, C, D or E; and [1999, c. 744, §4 (AMD); 1999, c. 744, §17 (AFF).]

B. The retiree must have been married to the new spouse for at least 6 months. [1989, c. 133, §35 (NEW).]

[1999, c. 744, §4 (AMD); 1999, c. 744, §17 (AFF).]

2. Time and manner of election. The retiree may make the election at any time after the death of the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and [1989, c. 133, §35 (NEW).]

B. Submitting evidence of the death of the former spouse and date of marriage to the new spouse. [1989, c. 133, §35 (NEW).]

[1989, c. 133, §35 (NEW).]

3. Amount of benefit. The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement allowance the retiree has been receiving.

[1989, c. 133, §35 (NEW).]

4. Effective date of coverage of new spouse. The effective date of the designation of the new spouse as the retiree's new beneficiary shall be the date the request is received or 6 months after the date of remarriage, whichever comes later. The retiree's retirement allowance shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1989, c. 133, §35 (NEW).]

SECTION HISTORY

1989, c. 133, §35 (NEW). 1999, c. 744, §§3,4 (AMD). 1999, c. 744, §17 (AFF).

§1361. DIVORCE

If a retiree who is the recipient of a reduced regular retirement allowance under section 1357, subsection 2, paragraph B, C, D or E is granted a divorce either after retirement or before a retirement beneficiary is named, subsections 1 to 4 apply. [1999, c. 744, §5 (AMD); 1999, c. 744, §17 (AFF).]

1. Election of benefit for different beneficiary. The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 1357, subsection 2, paragraph B, C, D or E; and [1999, c. 744, §6 (AMD); 1999, c. 744, §17 (AFF).]

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood. [1997, c. 55, §2 (NEW).]

[2007, c. 249, §9 (AMD) .]

2. Time and manner of election. The recipient may make the election at any time after the divorce is granted by:

A. Sending a written request to the executive director; and [1997, c. 55, §2 (NEW).]

B. Submitting evidence of the divorce. [1997, c. 55, §2 (NEW).]

[1997, c. 55, §2 (NEW) .]

3. Amount of benefit. The amount of the benefit payable under the option elected is the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefit the recipient has been receiving, plus the amount expected to be paid to the original spouse after the recipient's death.

[1997, c. 55, §2 (NEW) .]

4. Effective date of coverage of new beneficiary. The effective date of the designation of the recipient's new beneficiary is the date the request is received. The recipient's retirement benefit must be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1997, c. 55, §2 (NEW) .]

SECTION HISTORY

1997, c. 55, §2 (NEW). 1999, c. 744, §§5,6 (AMD). 1999, c. 744, §17 (AFF). 2007, c. 249, §9 (AMD).

Chapter 29: JUDICIAL RETIREMENT PRIOR TO DECEMBER 1, 1984

§1401. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

1. Currently effective annual salary. "Currently effective annual salary" means the annual salary on June 30, 1984, of the position from which the judge retired, or if he died in office, the position he held at death, increased on July 1, 1984, and each succeeding July 1st, by 6% of the salary, as adjusted, on the immediately preceding June 30th.

[1983, c. 863, Pt. B, §§ 38, 45 (AMD) .]

2. Judge. "Judge" means any Justice of the Supreme Judicial Court or the Superior Court and any Judge of the District Court who retired prior to December 1, 1984, and includes Active Retired Judges who retired prior to December 1, 1984. "Judge" also includes any Administrative Court Judge or any Associate Administrative Court Judge who retired prior to December 1, 1984.

[2001, c. 12, §2 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B38,B45 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 12, §2 (AMD).

§1402. GENERAL PROVISIONS

1. Application. The retirement benefits of all judges who retired prior to December 1, 1984 are governed by this chapter.

[2005, c. 386, Pt. R, §1 (NEW) .]

2. Administration. Beginning on the effective date of this subsection, this chapter is administered by the Board of Trustees of the Maine Public Employees Retirement System. The trustees and the system are entitled to rely upon the books, records and reports provided to the board with respect to the payments, liabilities, beneficiary designations and all transactions conducted prior to the effective date of this subsection, and must be indemnified and held harmless by the State with respect to any such matters. On and after the effective date of this subsection, the Board of Trustees of the Maine Public Employees Retirement System is responsible for the payment of the retirement allowance under this section from the pre-1984 judicial retirement fund.

[2005, c. 386, Pt. R, §1 (NEW); 2007, c. 58, §3 (REV) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 2005, c. 386, §R1 (RPR). 2007, c. 58, §3 (REV) .

§1403. FUNDING

1. No contributions. Benefits provided by this chapter are funded solely by the State. No contribution may be required of any judge.

[2005, c. 386, Pt. R, §1 (NEW) .]

2. Appropriations. The Board of Trustees of the Maine Public Employees Retirement System shall forward to the Executive Department for inclusion in its budget request an estimate of the amount needed to be appropriated to the pre-1984 judicial retirement fund that will be sufficient, when combined with the amount in the fund, to provide the benefits payable out of the fund during the ensuing biennium.

[2005, c. 386, Pt. R, §1 (NEW); 2007, c. 58, §3 (REV) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 2005, c. 386, §R1 (RPR). 2007, c. 58, §3 (REV) .

§1404. REGULAR RETIREMENT BENEFITS

Any judge who resigned that judge's office or ceased to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served on the Supreme Judicial Court, the Superior Court, the District Court, the Administrative Court or any combination of that service, for at least 7 years, or after attaining the age of 65 years and after having served as a judge on those courts for at least 12 years, or after attaining the age of 60 years and after having served as a judge on those courts for at least 20 years, is entitled to receive annually during the remainder of that judge's life, whether or not that judge is appointed an Active Retired Justice, a retirement benefit equal to 3/4 of the currently effective annual salary to be paid in the same manner as the salaries of the judges of that court from which that judge retired were paid prior to December 1, 1984. The right of any judge drawing a retirement benefit to continue to receive it ceases immediately if that judge acts as attorney or counsel or in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf that judge acts. [2001, c. 12, §3 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B39,B45 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 12, §3 (AMD) .

§1405. DISABILITY BENEFITS

Any judge who, prior to his retirement age was unable, by reason of failing health, to perform his duties and who was retired by majority of the justices of the court upon which he was sitting when retired shall receive annually during the remainder of his life a retirement benefit equal to 3/4 of the currently effective annual salary to be paid in the same manner as the salaries of the judges of that court from which he retired were paid prior to July 1, 1984. [1983, c. 863, Pt. B, §§ 40, 45 (AMD) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B40,B45 (AMD) .

§1406. SURVIVOR BENEFITS

1. Survivors' benefits. Any spouse or any child or children of a judge who died prior to December 1, 1984, shall continue to receive 3/8 of the currently effective annual salary as follows:

A. To the surviving spouse, as long as that spouse is not the dependent of another person; or [1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

B. To the child or children of the deceased judge under 18 years of age if there is no surviving spouse or upon the death of the surviving spouse or if the surviving spouse is or becomes the dependent of another person, payable until the youngest child reaches age 18. If more than one child under 18 years of age is eligible for this benefit, it shall be divided equally among them. [1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

2. Benefit upon death of judge. Upon the death of a judge, 3/8 of the currently effective annual salary shall be paid as follows:

A. To the surviving spouse, as long as that spouse is not the dependent of another person; or [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

B. To the child or children of the deceased judge under 18 years of age if there is no surviving spouse or upon the death of the surviving spouse or if the surviving spouse is or becomes the dependent of another person, payable until the youngest child reaches age 18. If more than one child under 18 years of age is eligible for this benefit, it shall be divided equally among them. [1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

[1983, c. 853, Pt. C, §§ 15, 18 (NEW) .]

SECTION HISTORY

1983, c. 853, §§C15,18 (NEW).

Chapter 31: COURT APPOINTED SPECIAL ADVOCATE PROGRAM

§1501. COURT APPOINTED SPECIAL ADVOCATE PROGRAM

There is established within the Administrative Office of the Courts of the Judicial Department the Court Appointed Special Advocate Program to provide volunteer lay persons to serve as court appointed special advocates or guardians ad litem under Title 22, section 4005, subsection 1, in child abuse and neglect cases. [1997, c. 393, Pt. C, §1 (AMD).]

SECTION HISTORY

1985, c. 581, §1 (NEW). 1997, c. 393, §C1 (AMD).

§1502. STAFF

With the advice and approval of the Court Appointed Special Advocate Advisory Panel, the State Court Administrator shall appoint a Director of the Court Appointed Special Advocate Program, who shall serve at the pleasure of the State Court Administrator. The State Court Administrator may also appoint one or more deputy directors or regional volunteer coordinators, who also shall serve at the pleasure of the State Court Administrator. The State Court Administrator shall provide necessary clerical assistance to the Court Appointed Special Advocate Program, within the limit of funds available. [1997, c. 393, Pt. C, §1 (AMD).]

SECTION HISTORY

1985, c. 581, §1 (NEW). 1997, c. 393, §C1 (AMD).

§1503. COURT APPOINTED SPECIAL ADVOCATES

The Director of the Court Appointed Special Advocate Program shall recruit the services of qualified persons to serve as volunteer court appointed special advocates. The volunteer court appointed special advocates are considered employees of the State only for the purposes of the Maine Tort Claims Act and are not entitled to receive compensation, but are reimbursed for their actual, necessary and reasonable expenses incurred in the performance of their duties, consistent with policies established by the Administrative Office of the Courts. [2001, c. 253, §1 (AMD).]

SECTION HISTORY

1985, c. 581, §1 (NEW). 2001, c. 253, §1 (AMD).

§1504. FACILITIES

The State Court Administrator shall provide a principal office for the Court Appointed Special Advocate Program and shall arrange for such facilities throughout the State as are necessary and adequate for the court appointed special advocates to conduct their duties. [1997, c. 393, Pt. C, §1 (AMD).]

SECTION HISTORY

1985, c. 581, §1 (NEW). 1997, c. 393, §C1 (AMD).

§1505. COURT APPOINTED SPECIAL ADVOCATE ADVISORY PANEL

A Court Appointed Special Advocate Advisory Panel is appointed by the Chief Justice of the Supreme Judicial Court to set the policy for and monitor the Court Appointed Special Advocate Program. [1991, c. 55, (AMD).]

SECTION HISTORY

1985, c. 581, §1 (NEW). 1991, c. 55, (AMD).

§1506. IMMUNITY FROM CIVIL LIABILITY

A person serving as a court appointed special advocate for the Judicial Department or as Director, deputy director or regional volunteer coordinator of the Court Appointed Special Advocate Program is immune from any civil liability, as are employees of governmental entities, under the Maine Tort Claims Act, Title 14, chapter 741, for acts performed within the scope of that person's administrative duties, and is entitled to quasi-judicial immunity for acts performed within the scope of the person's duties as a guardian ad litem. [2001, c. 253, §2 (AMD).]

SECTION HISTORY

1985, c. 581, §1 (NEW). 1989, c. 617, §2 (AMD). 1997, c. 393, §C2 (AMD). 2001, c. 253, §2 (AMD).

Chapter 32: CHILDREN'S GUARDIANS AD LITEM

§1551. DEFINITIONS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/17)

(WHOLE SECTION TEXT REPEALED 10/1/17 by T. 4, §1558; PL 2013, c. 406, §1 (NEW))

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [2013, c. 406, §1 (NEW).]

1. Division. "Division" means the Family Division within the District Court established in section 183.

[2013, c. 406, §1 (NEW) .]

2. Guardian ad litem. "Guardian ad litem" means a person appointed as the court's agent to represent the best interests of one or more children pursuant to Title 18-A, section 1-112, Title 19-A, section 1507 or Title 22, section 4005.

[2013, c. 406, §1 (NEW) .]

3. Best interests of the child. "Best interests of the child" means an outcome that serves or otherwise furthers the health, safety, well-being, education and growth of the child. In applying the standard of best interests of the child in Title 18-A and Title 19-A cases, the relevant factors set forth in Title 19-A, section 1653, subsection 3 must be considered.

[2013, c. 406, §1 (NEW) .]

SECTION HISTORY

2013, c. 406, §1 (NEW).

§1552. CHILDREN'S GUARDIANS

(WHOLE SECTION TEXT REPEALED 10/1/17 by T. 4, §1558; PL 2013, c. 406, §1 (NEW))

1. Guardian ad litem roster. The division shall assist the Chief Judge of the District Court in the establishment and maintenance of a roster of guardians ad litem pursuant to section 1553.

[2013, c. 406, §1 (NEW) .]

2. Administration of guardians ad litem under Title 19-A. For guardians ad litem appointed under Title 19-A, the division shall assist the Chief Judge of the District Court in:

A. Establishing standardized billing, itemization requirements and time reporting processes for all guardians ad litem; [2013, c. 406, §1 (NEW).]

B. Establishing guidelines for preparation of required reports; and [2013, c. 406, §1 (NEW) .]

C. Collecting, maintaining and reporting data about orders of appointment, submission of required reports, caseloads and other information as directed by the Chief Judge of the District Court. [2013, c. 406, §1 (NEW) .]

[2013, c. 406, §1 (NEW) .]

3. Staff. The State Court Administrator shall provide necessary professional and clerical or other staff and logistical support to the division within the limit of funds available.

[2013, c. 406, §1 (NEW) .]

4. Public information. The division shall provide public information about the role of guardians ad litem, how to provide comments about a guardian ad litem and the complaint process established pursuant to section 1557.

[2013, c. 406, §1 (NEW) .]

5. Effective date. This section takes effect January 1, 2015.

[2013, c. 406, §1 (NEW) .]

SECTION HISTORY

2013, c. 406, §1 (NEW) .

§1553. ROSTER OF GUARDIANS AD LITEM

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/17)

(WHOLE SECTION TEXT REPEALED 10/1/17 by T. 4, §1558; PL 2013, c. 406, §1 (NEW))

Rules adopted by the Supreme Judicial Court govern the establishment and maintenance of a roster of guardians ad litem. The rules must address: [2013, c. 406, §1 (NEW) .]

1. Application process. The process for applying to be included on the roster, including application forms;

[2013, c. 406, §1 (NEW) .]

2. Criteria. Criteria for initial listing on the roster, including:

A. Credentials, including professional licenses and minimum education requirements; [2013, c. 406, §1 (NEW) .]

B. Core training; and [2013, c. 406, §1 (NEW) .]

C. Good character; [2013, c. 406, §1 (NEW) .]

[2013, c. 406, §1 (NEW) .]

3. Continuing education. Continuing education requirements;

[2013, c. 406, §1 (NEW) .]

4. Criminal background check. Obtaining criminal history record information on an individual, including, at a minimum, criminal history record information from the Department of Public Safety, State Bureau of Identification;

[2013, c. 406, §1 (NEW) .]

5. Other requirements. Any other requirements necessary to remain in good standing and included on the roster; and

[2013, c. 406, §1 (NEW) .]

6. Removal. The process for removing a guardian ad litem from the roster.

[2013, c. 406, §1 (NEW) .]

SECTION HISTORY

2013, c. 406, §1 (NEW).

§1554. GUARDIAN AD LITEM RESPONSIBILITIES

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/17)

(WHOLE SECTION TEXT REPEALED 10/1/17 by T. 4, §1558; PL 2013, c. 406, §1 (NEW))

1. Role of guardian ad litem. The court may appoint a guardian ad litem to provide information to assist the court in determining the best interests of the child involved in the determination of parental rights and responsibilities and guardianship of a minor under Title 18-A, in the determination of parental rights and responsibilities under Title 19-A, section 904 or 1653 and in the determination of contact with grandparents under Title 19-A, section 1803. The court shall appoint a guardian ad litem in a child protection case under Title 22, chapter 1071.

[2013, c. 406, §1 (NEW) .]

2. Standards of conduct. Guardians ad litem shall abide by the standards of conduct as adopted by rule by the Supreme Judicial Court.

[2013, c. 406, §1 (NEW) .]

3. General responsibilities. A person appointed by the court to serve as a guardian ad litem acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem. As a quasi-judicial officer, the guardian ad litem shall perform the assigned duties independently and impartially in all relevant matters within the scope of the order of appointment, respecting the court's obligation to dispose of all judicial matters promptly, efficiently and fairly as provided in the Maine Code of Judicial Conduct. A guardian ad litem shall:

A. Represent consistently the best interests of the child and provide information to the court that assists the court in determining the best interests of the child; [2013, c. 406, §1 (NEW) .]

B. Understand and uphold the law and court orders related to the guardian ad litem's appointment; [2013, c. 406, §1 (NEW) .]

C. Maintain the highest standards of professionalism, cultural sensitivity and ethics; [2013, c. 406, §1 (NEW) .]

D. Recognize that timely resolution of each matter serves the best interests of the child and the child's need for stability; [2013, c. 406, §1 (NEW) .]

E. Within the scope of authority defined by statute or court order, plan, carry out, document and complete thorough, appropriate and fair investigations in a timely fashion; [2013, c. 406, §1 (NEW) .]

F. Communicate in a developmentally appropriate way with the child; [2013, c. 406, §1 (NEW) .]

G. Make well-reasoned and factually based written recommendations regarding the best interests of the child as directed by the order of appointment; [2013, c. 406, §1 (NEW) .]

H. Pursuant to the order of appointment, include parties in the investigation, use effective communication techniques, recognize limitations that may be imposed by the financial resources of the parties as applicable and be aware of the cultural and socioeconomic status of the parties; and [2013 , c. 406 , §1 (NEW) .]

I. Complete assignments and written reports in a timely manner and communicate effectively with the court in motions, reports, recommendations and testimony. [2013 , c. 406 , §1 (NEW) .]

[2013 , c. 406 , §1 (NEW) .]

SECTION HISTORY

2013 , c. 406 , §1 (NEW) .

§1555. APPOINTMENT OF GUARDIANS AD LITEM IN TITLE 18-A AND TITLE 19-A CASES

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/17)

(WHOLE SECTION TEXT REPEALED 10/1/17 by T. 4, §1558; PL 2013, c. 406, §1 (NEW))

1. Appointment of guardian ad litem. In proceedings to determine parental rights and responsibilities and guardianship of a minor under Title 18-A and in contested proceedings pursuant to Title 19-A, section 904, 1653 or 1803 in which a minor child is involved, the court may appoint a guardian ad litem for the child when the court has reason for special concern as to the welfare of the child. The court may appoint a guardian ad litem on the court's own motion, on the motion of one of the parties or upon agreement of the parties.

A. A court may appoint, without any findings, any person listed on the roster. In addition, when a suitable guardian ad litem included on the roster is not available for appointment, a court may, for good cause shown and after consultation with the parties, appoint an attorney admitted to practice in this State who, after consideration by the court of all of the circumstances of the particular case, in the opinion of the appointing court has the necessary skills and experience to serve as a guardian ad litem. For the purposes of this paragraph, good cause may include the appointment of a guardian ad litem on a pro bono basis. [2013 , c. 406 , §1 (NEW) .]

B. In determining whether to make an appointment, the court shall consider:

- (1) The wishes of the parties;
- (2) The age of the child;
- (3) The nature of the proceeding, including the contentiousness of the hearing;
- (4) The financial resources of the parties;
- (5) The extent to which a guardian ad litem may assist in providing information concerning the best interests of the child;
- (6) Whether the family has experienced a history of domestic abuse;
- (7) Abuse of the child by one of the parties; and
- (8) Other factors the court determines relevant. [2013 , c. 406 , §1 (NEW) .]

[2013 , c. 406 , §1 (NEW) .]

2. Order. An appointment of a guardian ad litem must be by court order.

A. The appointment order must be written on a court-approved form and must specify the guardian ad litem's length of appointment, the specific duties for the particular case, including the filing of a written report, and fee arrangements. [2013 , c. 406 , §1 (NEW) .]

B. The guardian ad litem has no authority to perform and may not be expected to perform any duties beyond those specified in the appointment order, unless subsequently ordered to do so by the court. [2013, c. 406, §1 (NEW).]

C. If, in order to perform any specified duties, the guardian ad litem needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The court order may specify that the guardian ad litem must be allowed access to the child by the caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers. [2013, c. 406, §1 (NEW).]

D. When appointment of the guardian ad litem or the fee arrangements for payment of the guardian ad litem are not agreed to by the parties, the court shall state in the appointment order its findings, based on the criteria stated in this section, supporting the appointment of the guardian ad litem and the fee payment order. [2013, c. 406, §1 (NEW).]

[2013, c. 406, §1 (NEW) .]

3. Payment for services; fees and billing; enforcement. The order under subsection 2 must specify that payment for the services of the guardian ad litem is the responsibility of the parties, with the terms of payment specified in the order.

A. The fee arrangements in the order must specify hourly rates or a flat fee, the timing of payments to be made and by whom and the maximum amount of fees that may be charged for the case without further order of the court. If the payments ordered to be made before the guardian ad litem commences the investigation, if any, are not paid as ordered, the guardian ad litem shall notify the court, and the court may vacate the appointment order or take such other action it determines appropriate under the circumstances. [2013, c. 406, §1 (NEW).]

B. In determining the responsibility for payment, the court shall consider:

- (1) The income of the parties;
- (2) The marital and nonmarital assets of the parties;
- (3) The division of property made or anticipated as part of the final divorce or separation;
- (4) Which party requested appointment of a guardian ad litem; and
- (5) Other factors considered relevant by the court, which must be stated with specificity in the appointment order. [2013, c. 406, §1 (NEW).]

C. The guardian ad litem shall use standardized billing, itemization requirements and time reporting processes as established by the division. The guardian ad litem may collect fees, if a collection action is necessary, pursuant to Title 14 and may not pursue collection in the action in which the guardian ad litem is appointed. [2013, c. 406, §1 (NEW).]

[2013, c. 406, §1 (NEW) .]

4. Best interests of the child. In performance of duties specified in the appointment order, the guardian ad litem shall use the standard of the best interests of the child.

[2013, c. 406, §1 (NEW) .]

5. Wishes of the child. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem.

[2013, c. 406, §1 (NEW) .]

6. Report. The guardian ad litem shall provide a copy of each report ordered by the court to the parties and the court at least 14 days before each report is due. A guardian ad litem shall provide a copy of the final written report to the parties and the court at least 14 days in advance of the final hearing. Reports are admissible as evidence and subject to cross-examination and rebuttal, whether or not objected to by a party. Any objections to a report must be filed at least 7 days before the applicable hearing.

[2013, c. 406, §1 (NEW) .]

SECTION HISTORY

2013, c. 406, §1 (NEW).

§1556. APPOINTMENT OF GUARDIAN AD LITEM IN CHILD PROTECTION CASES UNDER TITLE 22

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/17)

(WHOLE SECTION TEXT REPEALED 10/1/17 by T. 4, §1558; PL 2013, c. 406, §1 (NEW))

1. Appointment of guardian ad litem. An order appointing a guardian ad litem pursuant to Title 22, section 4005 must specify the terms and conditions of the appointment as provided in Title 22, this chapter and rules adopted by the Supreme Judicial Court.

[2013, c. 406, §1 (NEW) .]

2. Order. An appointment of a guardian ad litem must be by court order.

A. The appointment order must be written on a court-approved form and must specify the guardian ad litem's length of appointment and specific duties, including the filing of a written report. [2013, c. 406, §1 (NEW) .]

B. The guardian ad litem has no authority to perform and may not be expected to perform any duties beyond those specified in the appointment order, unless subsequently ordered to do so by the court. [2013, c. 406, §1 (NEW) .]

C. In pursuit of the best interests of the child, the guardian ad litem must be given access to all reports and records relevant to the case and shall investigate to ascertain the facts. [2013, c. 406, §1 (NEW) .]

D. The guardian ad litem must be provided access to the child by any agency or person. [2013, c. 406, §1 (NEW) .]

E. The guardian ad litem shall file such reports, motions, responses or objections as necessary and appropriate to the stage of the case to assist the court in identifying the best interests of the child and provide copies to all parties of record. [2013, c. 406, §1 (NEW) .]

F. The guardian ad litem shall appear at all child protection proceedings, unless previously excused by order of the court, and other proceedings as ordered by the court. The guardian ad litem may present evidence and ensure that, when appropriate, witnesses are called and examined, including, but not limited to, foster parents and psychiatric, psychological, medical or other expert witnesses. If the guardian ad litem testifies, the guardian ad litem must be duly sworn as a witness and be subject to cross-examination. In the event any new developments or significant changes in the child's circumstances occur during the pendency of the court process, the guardian ad litem may file appropriate pleadings. [2013, c. 406, §1 (NEW) .]

G. The guardian ad litem shall protect the interests of the child who is a witness in any judicial proceeding relating to the case in which the guardian ad litem has been appointed. The guardian ad litem may advocate for special procedures, including, but not limited to, special procedures to protect the child witness from unnecessary psychological harm resulting from the child's testimony, with or without the consent of other parties. [2013, c. 406, §1 (NEW).]

H. The guardian ad litem shall recommend appropriate services, by motion for court order if necessary, to access entitlements, to protect the child's interests and to implement a service plan. [2013, c. 406, §1 (NEW).]

I. The hourly rate of compensation for the guardian ad litem may not be less than the rate of compensation established by the Maine Commission on Indigent Legal Services pursuant to section 1804, subsection 3, paragraph F. Nothing in this paragraph prohibits the court from establishing maximum fees and other reasonable requirements relating to guardian ad litem billing and compensation. [2015, c. 439, §1 (NEW); 2015, c. 439, §3 (AFF).]

[2015, c. 439, §1 (AMD); 2015, c. 439, §3 (AFF) .]

3. Best interests of the child. In performance of duties specified in the appointment order, the guardian ad litem shall use the standard of the best interests of the child.

[2013, c. 406, §1 (NEW) .]

4. Wishes of the child. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem.

[2013, c. 406, §1 (NEW) .]

SECTION HISTORY

2013, c. 406, §1 (NEW). 2015, c. 439, §1 (AMD). 2015, c. 439, §3 (AFF).

§1557. COMPLAINT PROCESS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/17)

(WHOLE SECTION TEXT REPEALED 10/1/17 by T. 4, §1558; PL 2013, c. 406, §1 (NEW))

1. Rules. The Supreme Judicial Court shall provide by rule for a complaint process concerning guardians ad litem appointed under Title 18-A, Title 19-A and Title 22 that provides for at least the following:

A. The ability of a party to make a complaint before the final judgment as well as after the final judgment is issued; [2013, c. 406, §1 (NEW).]

B. Written instructions on how to make a complaint; [2013, c. 406, §1 (NEW).]

C. Clear criteria for making a complaint; [2013, c. 406, §1 (NEW).]

D. Transparent policies and procedures concerning the investigation of complaints and the provision of information to complainants; [2013, c. 406, §1 (NEW).]

E. A central database to log and track complaints; and [2013, c. 406, §1 (NEW).]

F. Policies and procedures for using complaints and investigations for recommending the removal of a guardian ad litem from a particular case or other consequences or discipline. [2013, c. 406, §1 (NEW) .]

[2013, c. 406, §1 (NEW) .]

2. Complaint process. The division shall provide written and electronic information to communicate the complaint process to the public and to all parties.

[2013, c. 406, §1 (NEW) .]

3. Minor complaint option. The rules may provide for a minor complaint option that authorizes corrective action without the necessity of completing the full complaint and investigatory process.

[2013, c. 406, §1 (NEW) .]

4. Motion to remove. The complaint process adopted pursuant to this section is in addition to the right of a party to file a motion to remove the guardian ad litem while the case is pending. The court shall hold a hearing on the motion at the request of the party filing the motion. The motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

[2013, c. 406, §1 (NEW) .]

SECTION HISTORY

2013, c. 406, §1 (NEW) .

§1558. REPEAL

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/17)

(WHOLE SECTION TEXT REPEALED ON 10/1/17)

This chapter is repealed October 1, 2017. [2013, c. 406, §1 (NEW) .]

SECTION HISTORY

2013, c. 406, §1 (NEW) .

Chapter 33: MAINE GOVERNMENTAL FACILITIES AUTHORITY

§1601. SHORT TITLE

This chapter is known and may be cited as the "Maine Governmental Facilities Authority Act."
[1997, c. 523, §2 (AMD).]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §2 (AMD).

§1602. MAINE GOVERNMENTAL FACILITIES AUTHORITY; MEMBERS; COMPENSATION

1. Establishment; membership. The Maine Governmental Facilities Authority is created as a body corporate and politic and a public instrumentality of the State. The exercise by the authority of powers conferred by this chapter is considered to be the performance of essential governmental functions. The authority consists of 5 members, one of whom is the Treasurer of State, serving as an ex officio, voting member, one of whom is the Commissioner of Administrative and Financial Services, serving as an ex officio, voting member, and 3 other members who shall each serve for a term of 5 years and are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government and confirmation by the Legislature. Any member of the authority may be removed by the Governor for cause. In the event of vacancy occurring in the membership, the Governor shall appoint a replacement member for the remainder of that term. Each member of the authority shall serve until that member's successor is appointed and qualified. Any member of the authority is eligible for reappointment.

A. The initial appointed members of the authority are appointed in a manner to stagger the terms of the members. Of the initial 3 appointed members, one is appointed to a term of 3 years; one is appointed to a term of 4 years and one is appointed to a term of 5 years. [1997, c. 523, §2 (AMD).]

[1997, c. 523, §2 (AMD) .]

2. Oath. Each member of the authority before commencing the member's duties shall take an oath to administer the duties of that office faithfully and impartially and that oath must be filed in the office of the Secretary of State.

[1997, c. 523, §2 (AMD) .]

3. Officers; quorum. The authority shall elect from its membership a chair and a vice-chair. In addition, the authority may have a secretary and a treasurer, who may be members or nonmembers of the authority. Three members of the authority constitute a quorum and the vote of 3 members is necessary for any action taken by the authority. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

The authority may meet by telephonic, video, electronic or other similar means of communication with less than a quorum assembled physically at the location of a public proceeding identified in the notice required by Title 1, section 406 only if:

A. Each member can hear all other members, speak to all other members and, to the extent reasonably practicable, see all other members by videoconferencing or other similar means of communication during the public proceeding, and members of the public attending the public proceeding at the location identified in the notice required by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see all members participating from other locations by videoconferencing or other similar means of communication; [2015, c. 449, §1 (NEW).]

B. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication identifies all persons present at the location from which the member is participating; [2015, c. 449, §1 (NEW) .]

C. A member who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only when the member's attendance is not reasonably practical. The reason that the member's attendance is not reasonably practical must be stated in the minutes of the meeting; and [2015, c. 449, §1 (NEW) .]

D. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding all documents and materials discussed at the public proceeding, with substantially the same content as those presented at the public proceeding. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available. Failure to comply with this paragraph does not invalidate an action taken by the authority at the public proceeding. [2015, c. 449, §1 (NEW) .]

[2015, c. 449, §1 (AMD) .]

4. Compensation. Each member of the authority is entitled to compensation in accordance with Title 5, chapter 379. Each member of the authority must be indemnified by the authority against expenses actually and necessarily incurred by the member in connection with the defense of any action or proceeding in which the member is made a party by reason of being or having been a member of the authority, and against any final judgment rendered against the member in that action or proceeding.

[1997, c. 523, §2 (AMD) .]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §2 (AMD). 2015, c. 449, §1 (AMD).

§1603. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 438, §1 (NEW).]

1. Act. "Act" means the Maine Governmental Facilities Authority Act.

[1997, c. 523, §3 (AMD) .]

2. Authority. "Authority" means the Maine Governmental Facilities Authority as established by this Act.

[1997, c. 523, §3 (AMD) .]

3. Bonds. "Bonds" means any bonds or securities of the Maine Governmental Facilities Authority issued pursuant to this Act.

[1997, c. 523, §3 (AMD) .]

4. Cost. "Cost," as applied to a project, projects or part of any project, includes, but is not limited to:

A. The purchase price or acquisition cost of any such project, projects or part of any project; [1987, c. 438, §1 (NEW) .]

B. The cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement and remodeling; [1987, c. 438, §1 (NEW).]

C. The cost of all labor, materials, machinery, furniture, fixtures and equipment; [1997, c. 523, §4 (AMD).]

D. The cost of all lands, structures, real or personal property, rights, easements, interests and franchises acquired; [1987, c. 438, §1 (NEW).]

E. The cost of all utility extensions, access roads, site development, financing charges, premiums for insurance, interest prior to and during construction and for 6 months after construction; [1987, c. 438, §1 (NEW).]

F. The cost of working capital related to the project, projects or part of any project; [1987, c. 438, §1 (NEW).]

G. The cost of plans and specifications, surveys and estimates of cost and of revenues; [1987, c. 438, §1 (NEW).]

H. The cost of engineering, feasibility, legal and other professional services; [1987, c. 438, §1 (NEW).]

I. The cost of reserves, insurance, letters of credit or other financial guarantees for payment of debt service on securities; [1997, c. 523, §4 (AMD).]

J. The cost of all other expenses necessary or incident to determining the feasibility or practicability of the project, projects or part of any project; [1987, c. 438, §1 (NEW).]

K. Administrative and operating expenses; and [1987, c. 438, §1 (NEW).]

L. Such other expenses as may be necessary or incident to the project, projects or part of any project and financing or refinancing authorized, including the refunding of any outstanding obligations, mortgages or advances issued, made or given by any person for any of the costs mentioned in this subsection. [1987, c. 438, §1 (NEW).]

[1997, c. 523, §4 (AMD) .]

5. Holder of securities or holder. "Holder of securities" or "holder" or any similar term, when used with reference to securities of the Maine Governmental Facilities Authority, means any person who is the bearer of any outstanding securities of the authority registered to bearer or not registered, or the registered owner of any outstanding securities of the authority that, at the time, are registered other than to bearer.

[1997, c. 523, §5 (AMD) .]

6. Notes. "Notes" means any notes of the Maine Governmental Facilities Authority issued pursuant to this Act.

[1997, c. 523, §5 (AMD) .]

7. Project, projects or part of any project. "Project, projects or part of any project" means the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, any structure designed for use as a court facility, state office or state activity space and intended to be used primarily by the State, any agency, instrumentality or department of the State or by any branch of State Government. The structure may include facilities for the use of related agencies of state, county or local government. "Project, projects or part of any project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, parking lots, parking facilities, rights-of-way, utilities, easements and other interests in land, machinery and equipment and all fixtures, appurtenances and facilities either on, above or under the ground that are used or usable in connection with the structure, and also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for

which its use is intended. "Project, projects or part of any project" also includes the acquisition, construction, improvement, reconstruction or repair of any equipment, device, technology, software or other personal property intended to be used primarily by the State, any agency, instrumentality or department of the State or by any branch of State Government or any related agency of state, county or local government. The exact scope of each project, projects or part of any project, other than those for the Judicial Branch and the Legislative Branch, must be set forth in a written designation by the Commissioner of Administrative and Financial Services to the authority and the exact scope of each project, projects or part of any project for the Judicial Branch must be set forth in a written designation by the State Court Administrator to the authority. The scope of each project for the Legislative Branch must receive a majority vote of the Legislative Council and be set forth in a written designation by the Executive Director of the Legislative Council to the authority. "Project, projects or part of any project" does not include such items as fuel, supplies or other items that are customarily considered as a current operating charge.

[1997, c. 788, §1 (AMD) .]

8. Securities. "Securities" means any bonds, notes or other evidences of indebtedness authorized by this Act.

[1987, c. 438, §1 (NEW) .]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1989, c. 596, §N1 (AMD). 1997, c. 523, §§3-6 (AMD). 1997, c. 788, §1 (AMD).

§1604. POWERS

In order to carry out the purposes of this Act, the Maine Governmental Facilities Authority has the following powers with respect to project, projects or part of any project together with all powers incidental to those powers or necessary for the performance of the following: [1997, c. 523, §7 (AMD) .]

1. Perpetual succession. To have perpetual succession as a body politic and corporate and an instrumentality of the State;

[1997, c. 523, §8 (AMD) .]

2. Power to sue and be sued. To sue or initiate or appear in any proceeding and the authority may be sued on its written contracts or in accordance with Title 1, section 409, Title 5, chapter 375 or Title 14, chapter 741;

[1997, c. 523, §8 (AMD) .]

3. Official seal. To adopt and have an official seal and alter the seal at pleasure;

[1987, c. 438, §1 (NEW) .]

4. Bylaws; rules. To adopt bylaws and, pursuant to Title 5, chapter 375, adopt any rule necessary or useful for carrying out any of its powers or duties pursuant to this Act. Rules adopted by the authority are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A;

[1997, c. 523, §8 (AMD) .]

5. Acquire real or personal property. To acquire real or personal property, or any interest in real or personal property, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise, to improve, hold, sell with or without public bidding, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, or any interest in real

or personal property, or mortgage interests owned or in its control, custody or possession and release or relinquish any right, title claim, lien, interest, easement or demand, however acquired, including threat of foreclosure;

[1987, c. 438, §1 (NEW) .]

6. Prepare and plan projects and facilities. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment for the project, projects or part of any project and attendant facilities and from time to time to modify, or cause to be modified, those plans, specifications, designs or estimates;

[1997, c. 523, §8 (AMD) .]

7. Improve, furnish and equip project, projects or part of any project and attendant facilities. By contract or contracts to construct, acquire, alter, repair, reconstruct, rehabilitate and improve, and furnish and equip, the project, projects or part of any project and necessary and usual attendant facilities;

[1987, c. 438, §1 (NEW) .]

8. Maintain, reconstruct and operate. To maintain, reconstruct and operate, or cause to be maintained, reconstructed and operated, the project, projects or part of any project until the cost of the project, projects or part of any project whether or not the outstanding securities issued with respect to the project, projects or any part of the project are no longer considered outstanding;

[1997, c. 523, §8 (AMD) .]

9. Fix and collect fees. To fix and collect fees, rentals and other charges for the use of the project, projects or part of any project; to contract with holders of its securities for the fixing and collection of those fees, rentals and other charges; to provide for the promulgation of such reasonable and proper rules as may be necessary to assure the maximum use of the facilities of any project, projects or part of any project at all times;

[1987, c. 438, §1 (NEW) .]

10. Provide for financing or refinancing. To provide financing for any project, projects or part of any project or to provide for refinancing of existing indebtedness, and, for the financing of the project, projects or part of any project and of other necessary and usual attendant facilities, to borrow money and to issue negotiable securities and to provide for the rights of the holders of those securities;

[1987, c. 438, §1 (NEW) .]

11. Make and execute contracts and other financial documents. To make and execute contracts and all other instruments, including trust agreements and other financial documents, and enter into such transactions as is necessary or convenient for the exercise of its powers and functions under this Act;

[1987, c. 438, §1 (NEW) .]

12. Agreements; acceptances; contributions; aid; grants. To enter into agreements with and accept loans, aid, contributions, grants and the cooperation or assistance of the United States, or any agency of the United States, or of the State or any agency or governmental subdivision in furtherance of the purposes of this Act, including, but not limited to, the development, maintenance, operation and financing of any project, projects or part of any project and to do any and all things necessary in order to avail itself of those loans, aid, contributions, grants and cooperation;

[1987, c. 438, §1 (NEW) .]

13. Agreements or other transactions. To enter into agreements or other transactions with any person, the purpose of which is to effectuate the purposes of this Act, including construction agreements, purchase or acquisition agreements and loan or lease agreements, with leasing corporations or other financial intermediaries;

[1987, c. 438, §1 (NEW) .]

14. Accept aid or contributions. To receive and accept aid or contributions, from any source, of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this Act, subject to the conditions upon which those grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or the State for any purpose consistent with this Act;

[1987, c. 438, §1 (NEW) .]

15. Insurance. To procure insurance against any loss in connection with its securities and its property and other assets in such amounts and from such insurers as it considers desirable;

[1987, c. 438, §1 (NEW) .]

16. Modification of contract, lease, indenture or agreement. To the extent permitted under its contract with the holders of securities, to consent to any modification of any contract, lease, indenture or agreement of any kind to which the authority is a party;

[1987, c. 438, §1 (NEW) .]

17. Manage or operate real and personal property. To manage or operate, or cause to be managed or operated, real and personal property, take assignments of leases and rentals or take any other action necessary or incidental to the performance of its duties under this Act;

[1997, c. 523, §9 (AMD) .]

18. Lease or rent any land, buildings, structures, facilities or equipment. To lease or rent any land, buildings, structures, facilities or equipment comprising all or a portion of a project, projects or part of any project for such amounts as the authority determines to the State or any agency, instrumentality or department of the State or by any branch of State Government or any related agency of state, county or local government, to further the purposes of the Act, provided that the obligation of the State or of any such agency, instrumentality, department or branch to make any rental or other payments is considered executory only to the extent of money made available by the Legislature, and that no liability on account of the state agency, instrumentality, department or branch may be incurred by the State or any such agency, instrumentality, department or branch beyond the money available for that purpose;

[1997, c. 523, §9 (AMD) .]

19. Secured or unsecured loans. To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of any project, projects or part of any project, including the refunding of any outstanding obligations, mortgages or advances issued, made or given by any person or other entity for the cost of a project, projects or part of any projects;

[1987, c. 438, §1 (NEW) .]

20. Investments. Except as otherwise provided in this Act, to invest any funds not needed for immediate use, including any funds held in reserve, in property or securities in which fiduciaries in the State may legally invest funds;

[1987, c. 438, §1 (NEW) .]

21. Appearances. To appear in its own behalf before boards, commissions, departments or agencies of municipal, State Government or Federal Government;

[1987, c. 438, §1 (NEW) .]

22. Executive director; other employees. To employ an executive director, consulting engineers, architects, attorneys, accountants, construction and financial experts and such other employees and agents as may be necessary in its judgment;

[1989, c. 221, §1 (AMD) .]

23. All acts granted or implied. To do any act necessary or convenient to exercise the powers granted in this Act or reasonably implied from this Act;

[1989, c. 221, §1 (AMD) .]

24. Contract with Maine Municipal Bond Bank. In carrying out its powers under this section, the authority shall, whenever possible, contract with the Maine Municipal Bond Bank for necessary clerical and administrative services, including use of the Executive Director of the Maine Municipal Bond Bank as the executive director, secretary and treasurer of the authority;

[1997, c. 523, §10 (AMD) .]

25. Accept federal funds; gifts and contributions. To accept federal funds, gifts and contributions, which include, but are not limited to, money; annuities and investments; furnishings, including paintings, artifacts and similar items; or anything of value for the purposes set forth in section 1619; and

[1997, c. 523, §11 (AMD) .]

26. Delegation to Bureau of General Services. To delegate those powers that the authority may specifically exercise, or cause to be exercised, pursuant to subsection 5, 6, 8, 9, 17 or 18 to the Department of Administrative and Financial Services, Bureau of General Services. The authority may revoke such a delegation upon the failure of the Bureau of General Services to discharge the delegated powers. The Bureau of General Services may provide to the authority an indemnity and hold-harmless agreement with respect to a delegation.

[1997, c. 523, §12 (NEW) .]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1989, c. 221, §§1,2 (AMD). 1997, c. 523, §§7-12 (AMD).

§1605. LEASING OR RENTING PROPERTY OF THE AUTHORITY

For the purposes of this chapter, the authority may lease, rent, assign or otherwise dispose of a project, projects or part of any project only to the State, any agency, instrumentality or department of the State or branch of State Government or any related agency of state, county or local government and the revenues

derived by the authority from any lease or rental agreement must be used, as necessary, to pay the principal interest and other associated costs on or with respect to any securities issued pursuant to this chapter.
[1997, c. 523, §13 (AMD) .]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §13 (AMD).

§1606. ISSUANCE OF SECURITIES

1. Resolution for issuance of securities. The authority may provide by resolution, at one time or from time to time, for the issuance and sale by it of securities, in its own name, for the purpose of paying the cost of any project, projects or part of any project, or the refinancing of existing indebtedness, approved by the authority. Securities of the authority may not be authorized and issued except pursuant to a resolution adopted by the vote of not less than a majority of the members of the authority. The resolution must describe the general purpose or purposes for which the securities are to be issued and state the maximum principal amount of the securities proposed to be issued. Securities may not be issued by the authority without a 2/3 vote of approval in each House of the Legislature.

[1997, c. 523, §14 (AMD) .]

1-A. Resolution for issuance of securities.

[1987, c. 872, §4 (RP) .]

2. Limitation on securities issued. The authority may not issue securities in excess of \$189,000,000 outstanding at any one time, of which no less than \$136,000,000 must be specifically allocated to projects relating to the Judicial Branch, except for the issuance of revenue refunding securities authorized by section 1610 and securities issued under section 1610-A. The amount of securities that may be outstanding in the name of the authority may be increased by the Legislature upon a showing by the authority that its available revenues are sufficient to support additional issuance of securities and that the issuance of securities will not materially impair the credit standing of the authority, the investment status of securities issued by the authority or the ability of the authority to fulfill its commitments to holders of securities. Nothing in this chapter may be construed to authorize the authority to issue securities to fund the construction, reconstruction, purchase or acquisition of facilities without a majority vote of approval in each House of the Legislature.

[2009, c. 213, Pt. WWW, §1 (AMD) .]

3. After issuance. After issuance, all securities of the authority shall be conclusively presumed to be fully and duly authorized and issued under the laws of the State and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the authority.

[1987, c. 438, §1 (NEW) .]

4. Form of securities. The securities of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates, including variable, floating or adjustable rates, as may be authorized by the authority. These securities may be made redeemable, callable or subject to purchase or tender before maturity, at such price or prices and under such terms and conditions as may be provided for by the authority prior to the issuance of the securities. The authority shall determine the form of the securities, including any interest coupons to be attached to the securities, if any, and the manner of execution of the securities and shall fix the denomination or denominations of the securities and the place or places of payment of principal and interest, which may be at any bank, national banking association or trust company within or without the State. Securities shall be executed in the name of the authority by the manual or facsimile signature of such official or officials as may be authorized in the resolution to execute those securities. Coupons, if any, attached to securities, shall be executed with the

facsimile signature of the official or officials designated in the resolution. If any official whose signature or a facsimile of whose signature appears on any securities or coupons ceases to be an official before the delivery of the securities, the signature or the facsimile shall be valid and sufficient for all purposes, with the same effect as if he had remained in office until the delivery.

Notwithstanding any of the other provisions of this Act or any recitals in any securities issued under this Act, all such securities shall be deemed to be negotiable instruments issued under the laws of the State. The securities may be issued in coupon or registered form, or both, as the authority may determine. Provisions may be made for the registration of any coupon securities as to principal alone and as to both principal and interest, and for the reversion into coupon securities of any securities registered as to both principal and interest. The authority may sell the securities in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the authority.

[1987, c. 438, §1 (NEW) .]

5. Award and select securities. The power to fix the date of sale of any securities, to receive bids or proposals, to award and sell any securities, to set the terms and provisions of any securities and to take all other action necessary to sell and deliver any securities may be delegated to any officer of the authority by a majority of the members of the authority.

[1987, c. 438, §1 (NEW) .]

6. Proceeds of securities. The proceeds of the securities of each issue shall be used solely for the purpose or purposes for which the securities were authorized and shall be disbursed in such manner and under such restrictions as the authority may provide in the resolution authorizing the issuance of the securities or in the trust agreement securing the securities. If the proceeds of the securities, by error of estimates or otherwise, are less than the cost, additional securities may, in like manner, be issued to provide the amount of the deficiency and, unless otherwise provided in the authorizing resolution or in the trust agreement securing the securities, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the securities first issued for the same purpose. The resolution providing for the issuance of securities and any trust agreement securing the securities may contain such limitations upon the issuance of additional securities as the authority may consider proper. Any additional securities shall be issued under such restrictions and limitations as may be prescribed by the resolution or trust agreement. The authority may provide for the replacement of any securities which become mutilated, destroyed, stolen or lost. Securities may be issued under this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this Act.

[1987, c. 438, §1 (NEW) .]

7. Use of proceeds. The proceeds of the securities of each issue must be used for the payment of all or part of the cost of the project, projects or part of any project for which authorized and must be disbursed in such manner and under such restrictions as are provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the securities. Proceeds may be used to pay all costs incurred in issuing the securities, interest on the securities for such time as may be authorized by the authority, subject to the provisions of this Act and to establish reserve funds and sinking funds for the securities.

[1997, c. 523, §16 (AMD) .]

8. Interim or temporary securities. Prior to the preparation of definitive securities, the authority may, under like restrictions, issue interim or temporary securities with or without coupons, exchangeable for definitive securities when those securities are executed and are available for delivery.

[1987, c. 438, §1 (NEW) .]

9. Securing of principal and interest. The principal of and interest on any securities issued by the authority, together with any related costs and expenses, must be secured by a pledge of the revenues and receipts derived by the authority from the project, projects or part of any project financed and from such other revenues of the authority as may be specially pledged by the authority and may be secured by a mortgage covering all or any part of the project, projects or part of any project, including any enlargements of and additions to the project, projects or part of any project made. The resolution under which the securities may be issued and any mortgage may contain any agreements and provisions respecting the maintenance of the project, projects or part of any project covered, the fixing and collection of rents, fees or other charges, the creation and maintenance of special funds from the revenues and any reserve funds and the rights and remedies available in the event of default, all as the authority considers advisable and not in conflict with the provisions of this Act. Each pledge, agreement and mortgage made for the benefit or security of any of the holders of securities continues in effect until the principal of and interest and any related costs and expenses on the securities for the benefit for which the securities were made have been fully paid.

[1997, c. 523, §16 (AMD) .]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1987, c. 816, §KK6 (AMD). 1987, c. 859, §§1-3 (AMD). 1987, c. 872, §§1-4 (AMD). 1991, c. 868, (AMD). 1997, c. 523, §§14-16 (AMD). 1997, c. 752, §1 (AMD). 1997, c. 788, §2 (AMD). 1999, c. 127, §A2 (AMD). 1999, c. 787, §1 (AMD). 2005, c. 460, §1 (AMD). 2009, c. 213, Pt. WWW, §1 (AMD).

§1607. PLEDGES AND COVENANTS; TRUST AGREEMENT

In the discretion of the authority, any securities issued under this Act may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank or national banking association having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of the securities may pledge or assign all or any portion of the revenues of the authority or any project, projects or part of any project of the authority and may contain such provisions for protecting and enforcing the rights and remedies of the holders of securities as may be reasonable and proper and not in violation of law. The provisions may include covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, reconstruction, renewal, replacement and insurance of any project, projects or part of any project in connection with which the securities have been authorized, the fees, charges or rents to be charged or other payments to be made for the use thereof or payment therefor, and the custody, safeguarding and application of all money. It is lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of securities or of revenues of the authority or any project, projects or part of any project to furnish such indemnifying bonds or to pledge such instruments as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the holders of the securities and of the trustee and may restrict the individual right of action by holders of securities. [1987, c. 438, §1 (NEW).]

Any such trust agreement or other financial document may, to secure the payment of the securities, mortgage or assign the mortgage of any project, projects or part of any project and create a lien upon any or all of the revenues of the authority or any project, projects or part of any project or upon any or all of the real or personal property constituting a part of the project, projects or part of any project. The trust agreement, financial document or resolution may contain such other provisions as the authority may consider reasonable and proper for the security of the holders of securities. [1987, c. 438, §1 (NEW).]

A trust agreement or financial document containing a mortgage or assignment of a mortgage in respect to a project, projects or any part of a project may authorize the trustee or mortgagee in the event of a default as defined, in respect to the securities issued to provide for the costs of the project, projects or any part of a project, to take possession of all or any part of the mortgaged property constituting the project, projects or any part of a project, to hold, operate and manage the project, projects or any part of a project and, with or without such taking of possession, to sell or from time to time to lease the project, projects or any part of a project. A

judgment for possession may be without conditions and such a sale or lease shall not be subject to any right to redeem the mortgaged property. Upon satisfaction at any time of the obligations secured by the mortgage in respect to the project, projects or any part of a project, which shall be deemed to include all applicable fees and expenses, any surplus proceeds from the operation, sale or lease of the project, projects or any part of a project shall be paid to the mortgagor of the project, projects or any part of a project or to those claiming under the mortgagee and, subject to any sale or lease under this paragraph, the mortgaged property in respect to the project, projects or any part of a project shall revert or be returned to the mortgagor or to those claiming under the mortgagee. [1987, c. 438, §1 (NEW).]

All expenses incurred in carrying out the trust agreement, financial document or resolution may be treated as a part of the cost of the operation of a project, projects or part of any project. All pledges of revenues under this Act shall be valid and binding from the time when the pledge is made. All such revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledges without any physical delivery or further action under the Uniform Commercial Code of the State or otherwise. The lien of the pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice of the lien. [1987, c. 438, §1 (NEW).]

Any resolution or resolutions authorizing any securities of any issue of securities, or any trust agreement with respect to any securities, may contain provisions, which shall be a part of the contract or contracts with the holders of the securities, as to: [1987, c. 438, §1 (NEW).]

1. Pledge of full faith and credit of authority. Pledging the full faith and credit of the authority or of all or any specified revenues or assets of the authority to secure the payment of the securities or of any issue of securities, subject to such agreements with holders of securities as may then exist;

[1997, c. 523, §17 (AMD) .]

2. Pledging of unencumbered revenues or assets of authority. Pledging all or any part of the unencumbered revenues or assets of the authority to secure the payment of the securities or any issue of securities, subject to such agreements with holders of securities as may then exist;

[1987, c. 438, §1 (NEW) .]

3. Setting aside of reserves or sinking funds. Setting aside of reserves or sinking funds and the regulation and disposition of the funds;

[1987, c. 438, §1 (NEW) .]

4. Limitations on use of proceeds of sale of securities. Limitations on the purpose to which the proceeds of sale of securities may be applied and pledging of the proceeds to secure the payment of the securities or of any issue of securities;

[1987, c. 438, §1 (NEW) .]

5. Limitations on issuance of additional securities. Limitations on the issuance of additional securities, the terms upon which additional securities may be issued and secured and the refunding of outstanding or other securities;

[1987, c. 438, §1 (NEW) .]

6. Amendment or abrogation of contract terms; procedure. The procedure, if any, by which the terms of any contract with holders of securities may be amended or abrogated, the amount of securities the holders of which must consent to and the manner in which the consent may be given;

[1987, c. 438, §1 (NEW) .]

7. Limitations on money expended by authority for expenses. Limitations on the amount of money to be expended by the authority for operating, administrative or other expenses of the authority;

[1987, c. 438, §1 (NEW) .]

8. Trustee, vesting of rights; powers and duties in trust. Vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed for the holders of securities issued pursuant to this Act;

[1987, c. 438, §1 (NEW) .]

9. Default. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the holders of the securities and providing for the rights and remedies of the holders of the securities in the event of that default, including as a matter of right the appointment of a receiver, but only if the rights and remedies are not inconsistent with the general laws of the State and the other provisions of this Act; and

[1987, c. 438, §1 (NEW) .]

10. Other matters. Any other matters of like or different character, which in any way affect the security or protection of the holders of the securities.

[1987, c. 438, §1 (NEW) .]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §17 (AMD).

§1608. TRUST FUNDS

All money received pursuant to the authority of this Act shall be considered to be trust funds, to be held and applied solely as provided in this Act. Any officer to whom, or any bank, trust company or other fiscal agent or trustee to which, that money is paid shall act as trustee of the money and shall hold and apply the money for the purpose of this Act, subject to such rules as may be adopted by the authority pursuant to this Act and as the resolution or trust agreement may provide. [1987, c. 438, §1 (NEW) .]

SECTION HISTORY

1987, c. 438, §1 (NEW) .

§1609. REMEDIES

Any holder of securities issued under this Act or of any of the coupons appertaining to the securities and the trustee under any resolution or trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of the securities or the trust agreement, or applicable financial document may, either by action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this Act or under the resolution, financial document or trust agreement, including the appointment of a receiver and may enforce and compel the performance of all duties required by this Act or by the resolution, financial document or trust agreement to be performed by the authority, including the collecting of rates, rents, fees and charges for the use of any or all of its facilities of any project, projects or part of any project. Any such suit, action or proceeding shall be brought for the benefit of all the holders of the securities and coupons, subject to the terms of any such resolution, trust agreement or financial document. [1987, c. 438, §1 (NEW) .]

SECTION HISTORY

1987, c. 438, §1 (NEW) .

§1610. REVENUE REFUNDING SECURITIES

The authority may provide by resolution for the issuance of revenue refunding securities of the authority for the purpose of refunding any obligations of the authority or for the purpose of the refinancing of existing indebtedness, then outstanding, that has been issued or incurred under this Act or otherwise, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of those obligations and, if considered advisable by the authority, for the additional purpose of construction or enabling the construction of improvements, extensions, enlargements or additions of the project, projects or part of any project in connection with which the obligations to be refunded were issued. The authority may provide by resolution for the issuance of securities of the authority for the combined purpose of refunding any obligations or revenue refunding securities then outstanding or for the purpose of the refinancing of existing indebtedness that has been issued or incurred under this Act, or otherwise, including the payment of any redemption premium on that indebtedness and any interest accrued or to accrue to the date of redemption of the obligations and paying all or any part of the cost of selling the securities or acquiring or constructing or enabling the acquisition or construction of any additional project, projects or part of any project, or any improvements, extensions, enlargements or additions of any project, projects or part of any project. The issuance of the securities, the maturities and other details of the securities, the rights and remedies of the holders of the securities and the rights, powers, privileges, duties and obligations of the authority with respect to the securities, are governed by this Act. [1997, c. 523, §18 (AMD).]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §18 (AMD).

§1610-A. ADDITIONAL SECURITIES

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$85,000,000 outstanding at any one time for correctional facilities. [1997, c. 752, §2 (NEW).]

SECTION HISTORY

1997, c. 752, §2 (NEW).

§1610-B. ADDITIONAL SECURITIES

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$33,000,000 outstanding at any one time for a psychiatric treatment facility. [1999, c. 731, Pt. NNN, §1 (NEW).]

SECTION HISTORY

1999, c. 731, §NNN1 (NEW).

§1610-C. ADDITIONAL SECURITIES

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$7,485,000 outstanding at any one time for capital repairs and improvements at various state facilities. [2003, c. 20, Pt. PP, §1 (NEW).]

SECTION HISTORY

2003, c. 20, §PP1 (NEW).

§1610-D. ADDITIONAL SECURITIES

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$9,000,000 outstanding at any one time for preliminary planning costs and capital repairs and improvements at various state facilities. [2005, c. 12, Pt. F, §1 (NEW).]

SECTION HISTORY

2005, c. 12, §F1 (NEW).

§1610-E. ADDITIONAL SECURITIES; COMPLIANCE WITH FEDERAL LAW

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$1,000,000 outstanding at any one time to make court facilities comply with the federal Americans with Disabilities Act. [2005, c. 463, §1 (NEW); 2005, c. 463, §4 (AFF).]

SECTION HISTORY

2005, c. 463, §1 (NEW). 2005, c. 463, §4 (AFF).

§1610-F. ADDITIONAL SECURITIES

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$7,350,000 outstanding at any one time for preliminary planning costs and capital repairs and improvements at various state facilities. [2013, c. 368, Pt. NNN, §1 (NEW).]

SECTION HISTORY

2013, c. 368, Pt. NNN, §1 (NEW).

§1610-G. ADDITIONAL SECURITIES; JUDICIAL BRANCH

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$15,000,000 outstanding at any one time for paying the costs associated with planning, purchasing, customizing and implementing a case management, data storage and electronic filing system for the Supreme Judicial Court, Superior Court and District Court, including the violations bureau. [2013, c. 571, §1 (NEW).]

SECTION HISTORY

2013, c. 571, §1 (NEW).

§1610-H. ADDITIONAL SECURITIES

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$23,000,000 outstanding at any one time for capital repairs and improvements to state-owned facilities and hazardous waste cleanup on state-owned properties. [2015, c. 267, Pt. M, §1 (NEW).]

SECTION HISTORY

2015, c. 267, Pt. M, §1 (NEW).

§1610-I. ADDITIONAL SECURITIES FOR CAPITAL CONSTRUCTION, REPAIRS AND IMPROVEMENTS

(CONFLICT)

(WHOLE SECTION CONFLICT: Text as enacted by PL 2015, c. 472, §1)

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, as limited by section 1610-A, the authority may issue additional securities in an amount not to exceed \$149,700,000 outstanding at any one time to pay for capital construction, repairs and improvements to the Maine Correctional Center in South Windham and a facility owned by the Department of Corrections in Washington County. [2015, c. 472, §1 (NEW).]

SECTION HISTORY

2015, c. 468, §1 (NEW). 2015, c. 472, §1 (NEW).

§1610-I. ADDITIONAL SECURITIES; JUDICIAL BRANCH***(CONFLICT)******(WHOLE SECTION CONFLICT: Text as enacted by PL 2015, c. 468, §1)***

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities from time to time in an aggregate amount not to exceed \$95,600,000 outstanding at any one time for the purposes of paying the costs associated with the planning, purchasing, financing, acquiring, constructing, renovating, furnishing, equipping, improving, extending, enlarging and consolidating new and existing facilities and projects relating to the Judicial Branch in the counties of Oxford, Waldo and York and planning for other court facilities. [2015, c. 468, §1 (NEW).]

SECTION HISTORY

2015, c. 468, §1 (NEW). 2015, c. 472, §1 (NEW).

§1611. TAX EXEMPTION

Securities issued under this Act shall be considered to constitute a proper public purpose and the securities so issued, their transfer and the income from the securities, including any profits made on the sale of the securities, at all times shall be exempt from taxation within the State. [1987, c. 438, §1 (NEW).]

SECTION HISTORY

1987, c. 438, §1 (NEW).

§1612. GOVERNMENTAL FUNCTIONS

The carrying out by the authority of the powers and duties conferred upon it by this Act is considered to be the performance of an essential function. Nothing contained in this Act may in any way limit or restrict the powers and duties of the authority granted to it. [1997, c. 523, §19 (AMD).]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §19 (AMD).

§1613. LIBERAL CONSTRUCTION

This Act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect its purposes. To the extent of any conflict between this Act and any other law, this Act shall prevail, but the power and authority granted by this Act shall be considered to be in addition to and not in derogation of power and authority granted by any other law. [1987, c. 438, §1 (NEW).]

SECTION HISTORY

1987, c. 438, §1 (NEW).

§1614. SECURITIES AS LEGAL INVESTMENT

The securities of the authority are legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The securities are also, by this Act, made securities that may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivision of the State and all municipalities and public corporations for any purpose for which the deposit of securities of bonds or other obligations of the State may be authorized by law. [2007, c. 466, Pt. A, §3 (AMD).]

SECTION HISTORY

1987, c. 438, §1 (NEW). 2007, c. 466, Pt. A, §3 (AMD).

§1615. CONFLICTS

A member of the authority may not participate in any decision on any contract entered into by the authority under this Act if that member has any interest, direct or indirect, in any firm, partnership, corporation or association that may be party to the contract. The interest must be disclosed to the authority in writing and must be set forth in the minutes of the authority. [1997, c. 523, §19 (AMD).]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §19 (AMD).

§1616. ACTIONS AGAINST AUTHORITY

A member of the authority, while acting within the scope of the authority of this Act, may not be subject to any personal liability resulting from the exercise or carrying out of any of the authority's purposes or powers. [1997, c. 523, §19 (AMD).]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §19 (AMD).

§1617. CONTRACT OF STATE

The State pledges and agrees with the holders of securities that the State will not limit or alter the rights vested in the authority to acquire, construct, reconstruct, equip and operate a project, projects or part of any project and related facilities, to establish and collect fees, charges, rentals and other charges referred to in this Act and to fulfill the terms of any agreements made with the holders of the securities or in any way impair the rights and remedies of the holders of securities until the securities, together with interest on securities, interest on any unpaid installments on interest and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of securities are fully met and discharged. [1987, c. 438, §1 (NEW).]

SECTION HISTORY

1987, c. 438, §1 (NEW).

§1618. CREDIT OF STATE NOT PLEDGED

Securities issued under this Act do not constitute or create any debt or debts, liability or liabilities on behalf of the State or of any political subdivision of the State other than the authority or a loan of the credit of the State or a pledge of the faith and credit of the State or of any political subdivision other than the authority, but are payable solely from the funds provided for that payment. All such securities must contain on their face a statement to the effect that neither the State nor any political subdivision of the State is obligated to pay the securities or the interest on the securities, except from revenues of the authority or the project, projects or part of any project for which they are issued and that neither the faith and credit nor the taxing power of the State or of any political subdivision of the State is pledged to the payment of the principal of or the interest on the securities. The issuance of securities under this Act does not directly, indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. Nothing contained in this section may prevent or be construed to prevent the authority from pledging its full faith and credit to the payment of securities authorized pursuant to this Act. [1997, c. 523, §19 (AMD).]

SECTION HISTORY

1987, c. 438, §1 (NEW). 1997, c. 523, §19 (AMD).

§1619. GIFTS AND CONTRIBUTIONS

The authority may accept gifts and contributions as provided in section 1604, subsection 25, for the purpose of designing, constructing, reconstructing, renovating or acquiring a project, projects or part of any project, including facilities for the Supreme Judicial Court, in accordance with section 1606, subsection 2. The authority may accept gifts for the purpose of furnishing a project, projects or part of any project, including the facilities of the Supreme Judicial Court. Furnishings include, but are not limited to, paintings, artifacts, furniture and similar articles. [2005, c. 2, §3 (COR).]

1. Acceptance of money. The authority, in accepting gifts of money, federal funds or other types of income, shall place this money in a special account for the purpose for which it is provided. The authority may invest the money as provided in this chapter, subject to any limitations imposed by the donor.

[1989, c. 221, §3 (NEW) .]

2. Acceptance of furnishings. The authority, in accepting furnishings for court facilities, shall allocate the furnishings as directed by the donor.

[1989, c. 221, §3 (NEW) .]

SECTION HISTORY

1989, c. 221, §3 (NEW). 1997, c. 523, §20 (AMD). RR 2005, c. 2, §3 (COR).

§1620. CONTINUING DISCLOSURE

With respect to any securities of the authority, the Treasurer of State may enter into any agreement for the benefit of holders of securities of the authority to provide annual financial information with respect to the State in order to assist underwriters of the securities of the authority in complying with any applicable regulation promulgated by the United States Securities and Exchange Commission with respect to annual financial information. [1997, c. 523, §21 (NEW).]

SECTION HISTORY

1997, c. 523, §21 (NEW).

Chapter 35: JUDICIAL COMPENSATION COMMISSION

§1701. JUDICIAL COMPENSATION COMMISSION

1. Commission established. The Judicial Compensation Commission, referred to in this chapter as the "commission," established by Title 5, section 12004-G, subsection 23-A shall study and make recommendations concerning the salary, benefits and retirement to be paid for all justices and judges of the Supreme Judicial Court, the Superior Court and the District Court.

[1999, c. 547, Pt. B, §13 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2. Members. The commission consists of 3 members selected from among the registered voters of the State; one is appointed by the Governor, one by the President of the Senate and one by the Speaker of the House. The public official with the power to appoint a member is the person in office on the day that member's term begins. The commission may not contain more than 2 members of the same political party. The initial appointments must be made within 10 days of September 29, 1995.

[1997, c. 2, §7 (COR) .]

3. Terms of office. The initial member appointed by the Speaker of the House serves until December 31, 1996. The initial member appointed by the President of the Senate serves until December 31, 1997. The initial member appointed by the Governor serves until December 31, 1998. After the initial appointments, members serve for terms of 4 years, beginning January 1, 1997 for the member appointed by the Speaker of the House, beginning January 1, 1998 for the member appointed by the President of the Senate and beginning January 1, 1999 for the member appointed by the Governor. Members are limited to 2 consecutive terms.

[1995, c. 451, §1 (NEW) .]

4. Vacancies. A vacancy on the commission is filled promptly for the remainder of the term in the same manner in which the position was originally filled under subsection 2. If a vacancy remains unfilled for more than 90 days, a temporary member of the commission must be appointed by a vote of the remaining commission members to serve with full powers of a commission member. A temporary member of the commission serves until the vacancy is filled by the public official with the power to appoint that member under subsection 2 and this subsection.

[1995, c. 451, §1 (NEW) .]

5. Prohibition on public service. A member of the commission may not hold any other public office or be an employee or member of any state department, agency, board or commission during the member's tenure on the commission. A violation of this subsection by a member of the commission results in immediate constructive resignation and the resulting vacancy must be filled according to subsection 4.

[1995, c. 451, §1 (NEW) .]

6. Designation of chair. The members, by majority vote, shall designate a chair from among their number who shall serve for 2 years from the date of election or until a successor is designated by majority vote and assumes the responsibilities.

[1995, c. 451, §1 (NEW) .]

7. Meeting; quorum; concurrence. The Executive Director of the Legislative Council shall call the first meeting of the commission no later than 5 days after the appointments are made. For all subsequent meetings, the commission shall meet, either in person or by teleconference, on the call of the chair or on

the request of at least 2 members. The presence of at least 2 members is required to conduct a meeting. The concurrence of at least 2 members is required for any formal action taken by the commission. The working papers, draft reports and other papers of the commission in the possession of a legislative employee are excepted from the definition of public records in accordance with Title 1, section 402, subsection 3, paragraph C.

[1995, c. 451, §1 (NEW) .]

8. Administration. The Legislative Council shall provide staff support for the commission when the Legislature is not in session.

[1995, c. 451, §1 (NEW) .]

9. Reimbursement. Notwithstanding Title 5, section 12002-A, members are entitled to reimbursement for actual and necessary expenses related to the travel to and from commission meetings when the expenses are approved by the chair and submitted to the Executive Director of the Legislative Council and are entitled to reimbursement for reasonable expenses incurred in the exercise of their powers under subsection 11 when approved by the Executive Director. The reimbursement must be made from the funds of the administrative office of the court system upon the request of the Executive Director. Other expenses may not be reimbursed by state funds.

[1995, c. 451, §1 (NEW) .]

10. No compensation. The members of the commission receive no compensation for their services.

[1995, c. 451, §1 (NEW) .]

11. Directive of commission. The commission shall study and make recommendations with respect to all aspects of judicial compensation in this State so that the judicial compensation structure is adequate to ensure that the most highly qualified lawyers in this State, drawn from diverse life and professional experiences, are not deterred from serving or continuing to serve in the state judiciary and do not become demoralized during service because of compensation levels that do not meet the criteria set forth in subsection 12.

[1995, c. 451, §1 (NEW) .]

12. Criteria for recommendations. In order to carry out its responsibilities under subsection 13 to make findings, conclusions and recommendations as to the proper salary and benefits for all justices and judges of this State and to fulfill the directive of the commission as set out in subsection 11, the commission may consider the following factors as they apply specifically in this State and where relevant elsewhere:

A. The skill and experience required of the particular judgeship at issue; [1995, c. 451, §1 (NEW) .]

B. The time required of the particular judgeship at issue; [1995, c. 451, §1 (NEW) .]

C. The value of compensable service performed by justices and judges, as determined by reference to judicial compensation in other states and the Federal Government; [1995, c. 451, §1 (NEW) .]

D. The value of comparable service performed in the private sector, including private judging, arbitration and mediation, based on the responsibility and discretion required in the particular judgeship at issue and the demand for those services in the private sector; [1995, c. 451, §1 (NEW) .]

E. The compensation of attorneys in the private sector; [1995, c. 451, §1 (NEW) .]

F. The Consumer Price Index and changes in that index; [1995, c. 451, §1 (NEW) .]

G. The overall compensation presently received by other public officials and employees; and [1995, c. 451, §1 (NEW) .]

H. Any other factors that are normally or traditionally taken into consideration in the determination of compensation. [1995, c. 451, §1 (NEW).]

[1995, c. 451, §1 (NEW) .]

13. Biennial report required. No later than December 15th of each even-numbered year, the commission shall make its biennial report to the joint standing committees of the Legislature having jurisdiction over appropriations matters and judicial matters. The biennial report must include findings, conclusions and recommendations as to the proper salary and benefits, including retirement, to be paid from the State Treasury and other sources for all justices and judges of this State. The commission is authorized to submit with its report any proposed legislation the commission determines necessary to implement these recommendations.

[2013, c. 563, §2 (AMD) .]

SECTION HISTORY

1995, c. 451, §1 (NEW). 1995, c. 509, §1 (AMD). 1995, c. 509, §8 (AFF).
RR 1997, c. 2, §7 (COR). 1999, c. 547, §B13 (AMD). 1999, c. 547, §B80
(AFF). 2013, c. 563, §2 (AMD).

§1702. REPEAL

(REPEALED)

SECTION HISTORY

1995, c. 451, §1 (NEW). 1997, c. 643, §M13 (RP).

Chapter 37: MAINE COMMISSION ON INDIGENT LEGAL SERVICES

§1801. MAINE COMMISSION ON INDIGENT LEGAL SERVICES; ESTABLISHED

The Maine Commission on Indigent Legal Services, established by Title 5, section 12004-G, subsection 25-A, is an independent commission whose purpose is to provide efficient, high-quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations. The commission shall work to ensure the delivery of indigent legal services by qualified and competent counsel in a manner that is fair and consistent throughout the State and to ensure adequate funding of a statewide system of indigent legal services, which must be provided and managed in a fiscally responsible manner, free from undue political interference and conflicts of interest. [2009, c. 419, §2 (NEW).]

SECTION HISTORY

2009, c. 419, §2 (NEW).

§1802. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2009, c. 419, §2 (NEW).]

1. Assigned counsel. "Assigned counsel" means a private attorney designated by the commission to provide indigent legal services at public expense.

[2009, c. 419, §2 (NEW) .]

1-A. Appellate counsel. "Appellate counsel" means an attorney who is entitled to payment under Title 15, section 2115-A, subsection 8 or 9.

[2013, c. 159, §10 (NEW) .]

2. Commission. "Commission" means the Maine Commission on Indigent Legal Services under section 1801.

[2009, c. 419, §2 (NEW) .]

3. Contract counsel. "Contract counsel" means a private attorney under contract with the commission to provide indigent legal services.

[2009, c. 419, §2 (NEW) .]

4. Indigent legal services. "Indigent legal services" means legal representation provided to:

A. An indigent defendant in a criminal case in which the United States Constitution or the Constitution of Maine or federal or state law requires that the State provide representation; [2009, c. 419, §2 (NEW) .]

B. An indigent party in a civil case in which the United States Constitution or the Constitution of Maine or federal or state law requires that the State provide representation; and [2009, c. 419, §2 (NEW) .]

C. Juvenile defendants. [2009, c. 419, §2 (NEW) .]

"Indigent legal services" does not include the services of a guardian ad litem appointed pursuant to Title 22, section 4105, subsection 1.

[2009, c. 419, §2 (NEW) .]

SECTION HISTORY

2009, c. 419, §2 (NEW). 2013, c. 159, §10 (AMD).

§1803. COMMISSION STRUCTURE

1. Members; appointment; chair. The commission consists of 5 members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmation by the Legislature. The Governor shall designate one member to serve as chair of the commission. One of the members must be appointed from a list of qualified potential appointees provided by the President of the Senate. One of the members must be appointed from a list of qualified appointees provided by the Speaker of the House of Representatives. One of the members must be appointed from a list of qualified potential appointees provided by the Chief Justice of the Supreme Judicial Court.

In determining the appointments and recommendations under this subsection, the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Supreme Judicial Court shall consider input from persons and organizations with an interest in the delivery of indigent legal services.

[2009, c. 419, §2 (NEW) .]

2. Qualifications. Individuals appointed to the commission must have demonstrated a commitment to quality representation for persons who are indigent and have the skills and knowledge required to ensure that quality of representation is provided in each area of law. No more than 3 members may be attorneys engaged in the active practice of law.

[2009, c. 419, §2 (NEW) .]

3. Terms. Members of the commission are appointed for terms of 3 years each, except that of those first appointed the Governor shall designate 2 whose terms are only one year, 2 whose terms are only 2 years and one whose term is 3 years. A member may not serve more than 2 consecutive 3-year terms plus any initial term of less than 3 years.

A member of the commission appointed to fill a vacancy occurring otherwise than by expiration of term is appointed only for the unexpired term of the member succeeded.

[2009, c. 419, §2 (NEW) .]

4. Quorum. Three members of the commission constitutes a quorum. A vacancy in the commission does not impair the power of the remaining members to exercise all the powers of the commission.

[2009, c. 419, §2 (NEW) .]

5. Compensation. Each member of the commission is eligible to be compensated as provided in Title 5, chapter 379.

[2009, c. 419, §2 (NEW) .]

SECTION HISTORY

2009, c. 419, §2 (NEW).

§1804. COMMISSION RESPONSIBILITIES

1. Executive director. The commission shall hire an executive director. The executive director must have experience in the legal field, including, but not limited to, the provision of indigent legal services.

[2009, c. 419, §2 (NEW) .]

2. Standards. The commission shall develop standards governing the delivery of indigent legal services, including:

- A. Standards governing eligibility for indigent legal services; [2009, c. 419, §2 (NEW) .]
- B. Standards prescribing minimum experience, training and other qualifications for contract counsel and assigned counsel; [2009, c. 419, §2 (NEW) .]
- C. Standards for assigned counsel and contract counsel case loads; [2009, c. 419, §2 (NEW) .]
- D. Standards for the evaluation of assigned counsel and contract counsel; [2009, c. 419, §2 (NEW) .]
- E. Standards for independent, quality and efficient representation of clients whose cases present conflicts of interest; [2009, c. 419, §2 (NEW) .]
- F. Standards for the reimbursement of expenses incurred by assigned counsel and contract counsel; and [2009, c. 419, §2 (NEW) .]
- G. Other standards considered necessary and appropriate to ensure the delivery of adequate indigent legal services. [2009, c. 419, §2 (NEW) .]

[2009, c. 419, §2 (NEW) .]

3. Duties. The commission shall:

- A. Develop and maintain a system that uses appointed private attorneys, contracts with individual attorneys or groups of attorneys and consider other programs necessary to provide quality and efficient indigent legal services; [2009, c. 419, §2 (NEW) .]
- B. Develop and maintain an assigned counsel voucher review and payment authorization system; [2009, c. 419, §2 (NEW) .]
- C. Establish processes and procedures consistent with commission standards to ensure that office and contract personnel use information technology and case load management systems so that detailed expenditure and case load data are accurately collected, recorded and reported; [2011, c. 420, Pt. C, §1 (AMD) .]
- D. Develop criminal defense, child protective and involuntary commitment representation training and evaluation programs for attorneys throughout the State to ensure an adequate pool of qualified attorneys; [2009, c. 419, §2 (NEW) .]
- E. Establish minimum qualifications to ensure that attorneys are qualified and capable of providing quality representation in the case types to which they are assigned, recognizing that quality representation in each of these types of cases requires counsel with experience and specialized training in that field; [2009, c. 419, §2 (NEW) .]
- F. Establish rates of compensation for assigned counsel; [2009, c. 419, §2 (NEW) .]
- G. Establish a method for accurately tracking and monitoring case loads of assigned counsel and contract counsel; [2009, c. 419, §2 (NEW) .]
- H. Submit to the Legislature, the Chief Justice of the Supreme Judicial Court and the Governor an annual report on the operation, needs and costs of the indigent legal services system; [2009, c. 419, §2 (NEW) .]

I. Approve and submit a biennial budget request to the Department of Administrative and Financial Services, Bureau of the Budget, including supplemental budget requests as necessary; [2013, c. 159, §11 (AMD).]

J. Develop an administrative review and appeal process for attorneys who are aggrieved by a decision of the executive director, or the executive director's designee, determining:

- (1) Whether an attorney meets the minimum eligibility requirements to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements;
- (2) Whether an attorney previously found eligible is no longer eligible to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements; and
- (3) Whether to grant or withhold a waiver of the eligibility requirements set forth in any commission rule.

All decisions of the commission, including decisions on appeals under subparagraphs (1), (2) and (3), constitute final agency action. All decisions of the executive director, or the executive director's designee, other than decisions appealable under subparagraphs (1), (2) and (3), constitute final agency action; and [2013, c. 159, §12 (AMD).]

K. Pay appellate counsel. [2013, c. 159, §13 (NEW).]

[2013, c. 159, §§11-13 (AMD) .]

4. Powers. The commission may:

A. Establish and maintain a principal office and other offices within the State as it considers necessary; [2009, c. 419, §2 (NEW).]

B. Meet and conduct business at any place within the State; [2009, c. 419, §2 (NEW).]

C. Use voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed; [2009, c. 419, §2 (NEW).]

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish standards under subsection 2, paragraph B and rates of compensation for assigned counsel and contract counsel under subsection 2, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and [2013, c. 368, Pt. RRR, §1 (AMD); 2013, c. 368, Pt. RRR, §4 (AFF).]

E. Appear in court and before other administrative bodies represented by its own attorneys. [2009, c. 419, §2 (NEW).]

[2013, c. 368, Pt. RRR, §1 (AMD); 2013, c. 368, Pt. RRR, §4 (AFF) .]

SECTION HISTORY

2009, c. 419, §2 (NEW). 2011, c. 141, §1 (AMD). 2011, c. 420, Pt. C, §1 (AMD). 2013, c. 159, §§11-13 (AMD). 2013, c. 368, Pt. RRR, §1 (AMD). 2013, c. 368, Pt. RRR, §4 (AFF).

§1805. EXECUTIVE DIRECTOR

The executive director of the commission hired pursuant to section 1804, subsection 1 shall: [2009, c. 419, §2 (NEW).]

1. Compliance with standards. Ensure that the provision of indigent legal services complies with all constitutional, statutory and ethical standards;

[2009, c. 419, §2 (NEW) .]

2. Development of standards. Assist the commission in developing standards for the delivery of adequate indigent legal services;

[2009, c. 419, §2 (NEW) .]

3. Delivery and supervision. Administer and coordinate delivery of indigent legal services and supervise compliance with commission standards;

[2009, c. 419, §2 (NEW) .]

4. Most effective method of delivery. Recommend to the commission the most effective method of the delivery of indigent legal services in furtherance of the commission's purposes;

[2009, c. 419, §2 (NEW) .]

5. Training for counsel. Conduct regular training programs for counsel providing indigent legal services;

[2009, c. 419, §2 (NEW) .]

6. Personnel. Subject to policies and procedures established by the commission, hire professional, technical and support personnel, including attorneys, considered reasonably necessary for the efficient delivery of indigent legal services;

[2009, c. 419, §2 (NEW) .]

7. Submissions to commission. Prepare and submit to the commission:

A. A proposed biennial budget for the provision of indigent legal services, including supplemental budget requests as necessary; [2009, c. 419, §2 (NEW) .]

B. An annual report containing pertinent data on the operation, needs and costs of the indigent legal services system; and [2009, c. 419, §2 (NEW) .]

C. Any other information as the commission may require; [2009, c. 419, §2 (NEW) .]

[2009, c. 419, §2 (NEW) .]

8. Develop and implement. Coordinate the development and implementation of rules, policies, procedures, regulations and standards adopted by the commission to carry out the provisions of this chapter and comply with all applicable laws and standards;

[2009, c. 419, §2 (NEW) .]

9. Records. Maintain proper records of all financial transactions related to the operation of the commission;

[2009, c. 419, §2 (NEW) .]

10. Other funds. Apply for and accept on behalf of the commission funds that may become available from any source, including government, nonprofit or private grants, gifts or bequests;

[2009, c. 419, §2 (NEW) .]

11. Meetings of commission. Attend all commission meetings, except those meetings or portions of the meetings that address the question of appointment or removal of the executive director; and

[2009, c. 419, §2 (NEW) .]

12. Other assigned duties. Perform other duties as the commission may assign.

[2009, c. 419, §2 (NEW) .]

SECTION HISTORY

2009, c. 419, §2 (NEW).

§1806. INFORMATION NOT PUBLIC RECORD

Disclosure of information and records in the possession of the commission is governed by this section.

[2011, c. 260, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Individual client information" means name, date of birth, social security number, gender, ethnicity, home address, home telephone number, home facsimile number, home e-mail address, personal cellular telephone number, personal pager number and any information protected under the attorney-client relationship. [2011, c. 260, §1 (NEW).]

B. "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address, personal cellular telephone number, personal pager number, date of birth and social security number. [2011, c. 260, §1 (NEW).]

C. "Request for funds for expert or investigative assistance" means a request submitted to the commission by an indigent party or by an attorney on behalf of an indigent client seeking authorization to expend funds for expert or investigative assistance, which includes, but is not limited to, the assistance of a private investigator, interpreter or translator, psychiatrist, psychologist or other mental health expert, medical expert and scientific expert. [2011, c. 260, §1 (NEW).]

D. "Case information" means:

- (1) The court in which a case is brought;
- (2) Any criminal charges or juvenile crime charges and the type, but not the contents, of any petition giving rise to a case;
- (3) The docket number;
- (4) The identity of assigned counsel and the date of assignment;
- (5) The withdrawal of assigned counsel and the date of withdrawal; and
- (6) Any order for reimbursement of assigned counsel fees. [2011, c. 547, §1 (NEW).]

[2011, c. 547, §1 (AMD) .]

2. Confidential information. The following information and records in the possession of the commission are not open to public inspection and do not constitute public records as defined in Title 1, section 402, subsection 3.

A. Individual client information that is submitted by a commission-rostered attorney or a court is confidential, except that the names of criminal defendants and the names of juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential. [2011, c. 260, §1 (NEW).]

B. Information subject to the lawyer-client privilege set forth in the Maine Rules of Evidence, Rule 502 or that constitutes a confidence or secret under the Maine Rules of Professional Conduct, Rule 1.6 is confidential. [2011, c. 260, §1 (NEW).]

C. Personal contact information of a commission-rostered attorney is confidential. [2011, c. 260, §1 (NEW).]

D. Personal contact information of a member of the commission or a commission staff member is confidential. [2011, c. 260, §1 (NEW).]

E. A request for funds for expert or investigative assistance that is submitted by an indigent party or by an attorney on behalf of an indigent client is confidential. The decision of the executive director of the commission hired pursuant to section 1804, subsection 1, or the executive director's designee, to grant or deny such a request is not confidential after a case has been completed. A case is completed when the judgment is affirmed on appeal or the period for appeal has expired. [2011, c. 260, §1 (NEW).]

F. Any information obtained or gathered by the commission when performing an evaluation or investigation of an attorney is confidential, except that it may be disclosed to the attorney being evaluated or investigated. [2015, c. 290, §1 (AMD).]

[2015, c. 290, §1 (AMD).]

3. Confidential information disclosed by the Judicial Department. The Judicial Department may disclose to the commission confidential information necessary for the commission to carry out its functions, including the collection of amounts owed to reimburse the State for the cost of assigned counsel, as follows:

A. Case information and individual client information with respect to court proceedings that are confidential by statute or court rule in which one or more parties are represented by assigned counsel; and [2011, c. 547, §2 (NEW).]

B. The name, address, date of birth and social security number of any person ordered by the court to reimburse the State for some or all of the cost of assigned counsel. [2011, c. 547, §2 (NEW).]

This information remains confidential in the possession of the commission and is not open to public inspection, except that the names of criminal defendants and the names of juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential.

[2011, c. 547, §2 (NEW).]

SECTION HISTORY

2011, c. 260, §1 (NEW). 2011, c. 547, §§1, 2 (AMD). 2015, c. 290, §1 (AMD).

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